

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

FILED
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APR 10 2013

SCOTT JOSEPH NJOS,
Plaintiff,

v.

S. ARGUETA, et al.,
Defendants.

PER M. E. V.
DEPUTY CLERK

CIVIL ACTION NO. 3:CV-12-1038
(Judge Kosik)

MEMORANDUM

Before the court are plaintiff's objections to the Report and Recommendation of the Magistrate Judge dated February 25, 2013 (Doc. 53). For the reasons which follow, we will overrule plaintiff's objections and we will adopt the Report and Recommendation of the Magistrate Judge.

BACKGROUND

Plaintiff, Scott Njos, an inmate at the United States Penitentiary- Lewisburg, Lewisburg, Pennsylvania, filed a pro se Bivens civil rights action pursuant to 28 U.S.C. §1331 on June 1, 2012. In his complaint, plaintiff raises claims regarding the use of excessive force, retaliation, denial of access to the courts, and denial of adequate medical treatment.

As part of an extensive procedural history, on June 1, 2012, plaintiff filed a Motion for Temporary Restraining Order and a Preliminary Injunction (Doc. 6). In his motion, plaintiff requests that he be provided with an outside medical exam for his head, eye and hand injuries and that he be moved to Z-block as "housing rec alone status". Specifically, he requests that he be examined by a qualified neurologist and optometrist from an outside medical facility, to obtain an evaluation of the present condition of plaintiff's right eye and left hand, and for a prescription for a course of physical therapy and pain medication that will diminish pain and that will restore and

maintain the full function of his right eye and left hand. He also requests a change in status, i.e. that he be moved to Z-block under "housing rec alone status".

The defendants filed a brief in opposition to plaintiff's Motion for Injunctive Relief (Doc. 46) on January 28, 2013. Plaintiff filed a reply brief on February 11, 2013 (Doc. 48).

On February 25, 2013, the Magistrate Judge filed a Report and Recommendation (Doc. 53), wherein he recommended that the plaintiff's Motion for a Temporary Restraining Order and Preliminary Injunction be denied. Specifically, the Magistrate Judge found that plaintiff has not met his burden of proving that he will suffer irreparable harm, that he is likely to succeed on the merits of his claims, that granting relief will not result in an even greater harm to defendants or that the public interest will be adversely affected if plaintiff's Motion is not granted. The Magistrate Judge then elaborates on why the plaintiff has failed to prove each of the elements necessary for injunctive relief.

In his objections, plaintiff argues that he has not been treated for his head injury, but that he was examined; that his sinuses were never checked as suggested in the optometry consult; that he still experiences symptoms; and that defendants have done the bare minimum in terms of treatment. Plaintiff also objects that he has received no physical therapy for carpal tunnel syndrome. Plaintiff then discusses the underlying merits of his case regarding the use of restraints. Finally, plaintiff discusses his request for a cell change.

In filing his objections, plaintiff requests this court to review his Motion and supporting documents. We have reviewed the briefs and exhibits submitted by the parties and we agree with the Magistrate Judge that plaintiff received medical evaluations for his complaints, that he received treatment from prison medical personnel, and that he disagrees with the assessments of the prison personnel. As

the Magistrate Judge points out, injunctive relief may be issued only in exceptional and extraordinary circumstances. While plaintiff argues to the contrary, we do not find that plaintiff has met his burden of proving that he will suffer irreparable harm or that he is likely to succeed on the merits of his claims.

Because we agree with the findings of the Magistrate Judge and because we find no merit to plaintiff's objections, we will overrule the plaintiff's objections and we will adopt the Report and Recommendation of the Magistrate Judge. An appropriate Order will follow.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA


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Plaintiff,	:	
	:	CIVIL ACTION NO. 3:CV-12-1038
v.	:	
	:	(Judge Kosik)
S. ARGUETA, et al.,	:	
Defendants.	:	

ORDER

AND NOW, THIS 10th DAY OF APRIL, 2013, IT IS HEREBY ORDERED

THAT:

- (1) The Report and Recommendation of Magistrate Judge Thomas M. Blewitt dated February 25, 2013 (Doc. 53) is **ADOPTED**;
- (2) Plaintiff's Objections (Doc. 56) are **OVERRULED**;
- (3) The plaintiff's Motion for a Temporary Restraining Order and Preliminary Injunction (Doc. 6) is **DENIED**; and
- (4) The above-captioned action is **REMANDED** to the Magistrate Judge for further proceedings.



Edwin M. Kosik
United States District Judge