UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

ANTHONY CORBIN,
Plaintiff,

v.

TABB BICKELL, et. al,
Defendants.

CIVIL ACTION NO. 3:13-CV-856

(Judge Kosik)

MEMORANDUM AND ORDER

AND NOW, THIS 8th DAY OF JULY, 2013, IT APPEARING TO THE COURT THAT:

(1) Plaintiff, Anthony Corbin, an inmate confined at the State Correctional Institution at Huntingdon ("SCI- Huntingdon"), Huntingdon, Pennsylvania, filed the instant civil rights action pursuant to 42 U.S.C. §1983 on April 5, 2013;

(2) The matter was assigned to Magistrate Judge Thomas M. Blewitt;

(3) The basis of the Complaint was plaintiff's alleged exposure to unreasonably high levels of Environmental Tobacco Smoke ("ETS") in violation of the Eighth Amendment;

(4) The Magistrate Judge screened plaintiff's Complaint and filed a Report and Recommendation on April 19, 2013 (Doc. 6);

(5) On May 9, 2013, we adopted, in part, the Report and Recommendation and allowed plaintiff to amend his Complaint as to the claims against certain defendants, in their personal capacities (Doc. 9);

(6) On May 31, 2013, plaintiff filed an Amended Complaint (Doc. 12);

(7) On June 14, 2013, the Magistrate Judge filed a Report and Recommendation in which he recommended that defendants Showalter, Yost, Walters and Hicks-Kern be dismissed with prejudice, that plaintiff's Eighth

Amendment claim be allowed to proceed against defendants Granlund and Bickell, and that the action be remanded to the Magistrate Judge for further proceedings (Doc. 14);

(8) Plaintiff has not filed any objections to the Report and Recommendation of the Magistrate Judge;

AND, IT FURTHER APPEARING THAT:

(9) If no objections are filed to a Magistrate Judge's Report and Recommendation, the plaintiff is not statutorily entitled to a *de novo* review of his claims. 28 U.S.C.A.§636(b)(1)(C); *Thomas v. Arn*, 474 U.S. 140, 150-53 (1985). Nonetheless, the usual practice of the district court is to give "reasoned consideration" to a magistrate judge's report prior to adopting it. *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987);

(10) We have reviewed the Report and Recommendation of the Magistrate Judge and we agree with his recommendation;

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

(1) The Report and Recommendation of Magistrate Judge Thomas M. Blewitt dated June 14, 2013 (Doc. 14) is **ADOPTED**;

(2) Defendants Showalter, Yost, Walters and Hicks-Kern are **DISMISSED** from this action with prejudice;

(3) Plaintiff's Eighth Amendment claim is allowed to **PROCEED** only as against defendants Granlund and Bickell; and

(4) The above-captioned action is **REMANDED** to the Magistrate Judge for further proceedings.

Edwin M. Kosik
United States District Judge