

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DERRICK FOSTER,

Plaintiff,

v.

CHARLES MAIORANA, *et al.*,

Defendants.

CIVIL ACTION NO. 3:CV-14-1368

(JUDGE CAPUTO)

(MAGISTRATE JUDGE

CARLSON)

**ORDER**

**NOW**, this 21<sup>st</sup> day of November, 2014, **IT IS HEREBY ORDERED** that:

- (1) Magistrate Judge Carlson's Report and Recommendation (Doc. 6) is **ADOPTED in part** and **REJECTED in part**.
  - (A) Plaintiff's Motion to Proceed *In Forma Pauperis* (Doc. 3) is **GRANTED**.
  - (B) Plaintiff's Motion for Preliminary Injunction and Temporary Restraining Order (Doc. 2) is **DENIED**.
  - (C) Plaintiff's claims against Defendants Charles Maiorana, Griffiths, O'Donnell, Tony Eckenrode, Charles Entzel and Bobby L. Meeks are **TRANSFERRED** to the United States District Court for the Western District of Pennsylvania, and severed from the claims against Defendant Fink.
  - (D) Plaintiff's claims against Defendants Darlene Parker, Fegley, McKee and Monica A. Recktenwald are **DISMISSED** as barred by the Statute of Limitations.
  - (E) Plaintiff's claim against Defendant Fink based on Fink's attempt to block Plaintiff's transfer for retaliatory reasons is **DISMISSED**. The remainder of Plaintiff's claims against Defendant Fink are permitted to proceed.
  - (F) Plaintiff's claims that are dismissed are **DISMISSED without prejudice** with leave to amend his complaint. If Plaintiff does not amend his complaint within thirty (30) days, these claims will be **DISMISSED with prejudice**.
- (2) The Motion to Appoint Counsel (Doc. 9) is **DENIED without prejudice**.
- (3) The Motion for Leave to Proceed *in forma pauperis* (Doc. 10) is **DENIED** as duplicative.
- (4) The matter is **RECOMMENDED** to Magistrate Judge Carlson for further proceedings.

/s/ A. Richard Caputo  
A. Richard Caputo  
United States District Judge