

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

ROBERT COPE,

Plaintiff,

v.

LT. REEDY P., et al,

Defendants.

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3:15-CV-01876
(JUDGE MARIANI)

ORDER

AND NOW, THIS 18th DAY OF OCTOBER, 2017, upon review of Magistrate Judge Saporito's Report and Recommendation ("R&R") (Doc. 68) for clear error or manifest injustice, **IT IS HEREBY ORDERED THAT:**

1. The R&R (Doc. 68) is **ADOPTED IN PART AND OVERRULED IN PART.**
2. For the reasons set forth in the R&R, Plaintiff's Fourteenth Amendment claim is **DISMISSED WITH PREJUDICE** as legally frivolous and for failure to state a claim upon which relief can be granted.
3. Defendants' Motion for Summary Judgment (Doc. 52) is **GRANTED IN PART AND DENIED IN PART as follows:**
 - a. For the reasons set forth in the R&R, Defendants' motion for summary judgment is **GRANTED** with respect to Plaintiff's state law negligence claim.

- b. For the reasons set forth in the R&R, Defendants' motion for summary judgment with respect to Plaintiff's Eighth Amendment claim is **GRANTED** as to Defendants Wetzel, Delbalso, Reedy, and Geisinger.
 - c. For the reasons set forth in the Court's accompanying memorandum opinion, Defendants' motion for summary judgment with respect to Plaintiff's Eighth Amendment claim is **GRANTED** as to Defendants Wintersteen, Martin, Ciocca, and Toluba.
 - d. For the reasons set forth in the R&R and this Court's accompanying memorandum opinion, Defendants' motion for summary judgment with respect to Plaintiff's Eighth Amendment claim is **DENIED** as to Defendant Kosakowski.
4. Judgment is hereby entered **IN FAVOR OF** Defendants Wetzel, Delbalso, Reedy, Geisinger, Wintersteen, Martin, Ciocca, and Toluba and **AGAINST** Plaintiff Cope on all counts.
5. Judgment is hereby entered **IN FAVOR OF** Defendant Kosakowski and **AGAINST** Plaintiff Cope on Plaintiff's Fourteenth Amendment and state law negligence claims.
6. The case is **REMANDED** to Magistrate Judge Saporito for purposes of determining whether the parties will consent to his jurisdiction to conduct the trial in this matter.



Robert D. Mariani
United States District Judge