

against the defendants; that Defendants Cola and Shannon in their individual capacity be dismissed as parties; that Defendant Shenandoah Police Department be dismissed; that the Eighth Amendment claim against Defendant Buchinsky be dismissed; and that plaintiff's motion for a subpoena be denied as moot.

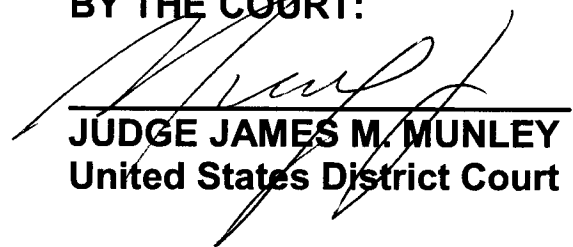
No objections to the report and recommendation have been filed, and the time for such filing has passed. Therefore, in deciding whether to adopt the report and recommendation, we must determine if a review of the record evidences plain error or manifest injustice. FED. R. CIV. P. 72(B) 1983 Advisory Committee Notes ("When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record to accept the recommendation"); see also 28 U.S.C. § 636(b)(1); Sullivan v. Cuyler, 723 F.2d 1077, 1085 (3d Cir. 1983).

After a careful review, we find neither a clear error on the face of the record nor a manifest injustice, and therefore, we shall adopt the report and recommendation. It is hereby **ORDERED** as follows:

- 1) The magistrate judge's report and recommendation (Doc. 51) is **ADOPTED**;
- 2) The motions to dismiss filed by the Parole Defendants (Doc. 27) and the Police Defendants (Doc. 31) are **GRANTED**;
- 3) Plaintiff's claims against Defendants Schuylkill County Adult Probation and Parole, Cola, and Shannon in their official capacity are **DISMISSED** as barred by Eleventh Amendment sovereign immunity;

- 4) Plaintiff's requested injunctive relief is improper and inadequate to maintain an action against the Parole Defendants over sovereign immunity, and is therefore **DISMISSED**;
- 5) Defendants Cola and Shannon are **DISMISSED** as defendants in their individual capacity;
- 6) Defendant Shenandoah Police Department is not a person amenable to suit under § 1983 and is therefore **DISMISSED**;
- 7) Plaintiff's Eighth Amendment claim against Defendant Buchinsky is **DISMISSED** for failure to state a claim;
- 8) Plaintiff's motion for a subpoena (Doc. 48) is **DENIED AS MOOT**; and
- 5) The Clerk of Court is directed to **REMAND** this matter to Magistrate Judge Mehalchick for further proceedings on the sole remaining excessive force claim against Defendant Officer John Buchinsky.

BY THE COURT:



JUDGE JAMES M. MUNLEY
United States District Court