

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

HENRY UNSELD WASHINGTON,	:	
	:	4:08-cv-1283
Plaintiff,	:	
	:	Hon. John E. Jones III
v.	:	
	:	Hon. Martin C. Carlson
JAMES GRACE, <i>et al.</i> ,	:	
	:	
	:	
Defendants.	:	

**MEMORANDUM**

**November 29, 2010**

**THE BACKGROUND OF THIS MEMORANDUM IS AS FOLLOWS:**

This matter is before the Court on the Report and Recommendation (“R&R”) of Magistrate Judge Martin C. Carlson (Doc. 51), filed on November 9, 2010, which recommends that we dismiss this action without further leave to amend. Objections to the R&R were due by November 26, 2010. To date, no objections have been filed by either party. Thus, this matter is ripe for our disposition. For the reasons that follow, the R&R will be adopted in its entirety and this case will be closed.

## **I. STANDARD OF REVIEW**

When, as here, no objections are made to a magistrate judge's report and recommendation, the district court is not statutorily required to review the report before accepting it. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). According to the Third Circuit, however, "the better practice is to afford some level of review to dispositive legal issues raised by the report." *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987). "[T]he court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Fed. R. Civ. P. 72(b), advisory committee notes; *see also Henderson*, 812 F.2d at 878-79 (stating "the failure of a party to object to a magistrate's legal conclusions may result in the loss of the right to de novo review in the district court"); *Tice v. Wilson*, 425 F. Supp. 2d 676, 680 (W.D. Pa. 2006); *Cruz v. Chater*, 990 F. Supp. 375-78 (M.D. Pa. 1998); *Oldrati v. Apfel*, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998). The Court's examination of this case amply confirms the Magistrate Judge's determinations.

## **II. DISCUSSION**

This *pro se* action filed by Plaintiff Henry Unseld Washington ("Plaintiff" or "Washington"), a state prisoner, is yet another lawsuit in the ongoing series of litigation commenced by Washington against officials at the various state institutions where he is incarcerated. Within the instant R&R, Magistrate Judge

Carlson reviews Washington's third amended complaint, finding that, despite repeated instructions from the Magistrate Judge, the document fails to comply with the basic requisites for a valid complaint in federal court. In particular, Washington's third amended complaint continues to state claims that fall far outside the applicable statutes of limitations. Further, the bulk of Washington's allegations are nothing more than labels and conclusions, and the formulaic recitation of the elements of various causes of actions. Magistrate Judge Carlson, after a thoughtful and careful review of Washington's third amended complaint, concludes that this document contains the same assortment of fundamentally flawed claims which this Court previously found wanting. Accordingly, Magistrate Judge Carlson recommends that this complaint be dismissed without further leave to amend

As we have already mentioned, neither Defendants nor the Plaintiff have filed objections to this R&R. Because we agree with the sound reasoning that led the Magistrate Judge to the conclusions in the R&R, we will adopt the R&R in its entirety.<sup>1</sup> With a mind towards conserving judicial resources, we will not rehash the reasoning of the Magistrate Judge; rather, we will attach a copy of the R&R to

---

<sup>1</sup> We commend Magistrate Judge Carlson for performing a painstaking and thorough analysis of the case *sub judice*.

this document, as it accurately reflects our consideration and resolution of the case *sub judice*. An appropriate Order shall issue.