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

RAYMOND M. KRUSHIN,

Plaintiff,

v.

DR. GUNNER KOSEK,
DR. DIAZ,
LCCF MEDICAL STAFF,
CORRECT CARE SOLUTIONS,
LT. AMIEN,
JAMES LARSON,
KEVIN GALLAGER,
LUZERNE COUNTY
CORRECTIONAL FACILITY
MEDICAL DEPARTMENT, and
CORRECT CARE SOLUTIONS
MEDICAL STAFF,

Defendants.

No. 4:16-CV-01540

(Judge Brann)

(Magistrate Judge Carlson)

ORDER

MARCH 18, 2019

Raymond M. Krushin, a Pennsylvania state prisoner, has filed a 42 U.S.C. § 1983 complaint, which he later amended, alleging that numerous defendants violated his Eighth Amendment rights. On February 22, 2019, Magistrate Judge Martin C. Carlson issued a Report and Recommendation, recommending that this Court grant in part a motion to dismiss filed by James Larson, Kevin Gallager, and Luzerne County Correctional Facility Medical Department (collectively "Moving

Defendants") on the ground that Krushin's claims are barred in part by the doctrine of res judicata, and in part because Moving Defendants cannot be held liable based strictly on their supervisory positions. No timely objections were filed.[1]

Where no objection is made to a report and recommendation, this Court will review the recommendation only for clear error. Fed. R. Civ. P. 72(b), advisory committee notes; *see Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987) (explaining that court should in some manner review recommendations regardless of whether objections were filed). Conversely, "[i]f a party objects timely to a magistrate judge's report and recommendation, the district court must 'make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.'" *Equal Emp't Opportunity Comm'n v. City of Long Branch*, 866 F.3d 93, 99 (3d Cir. 2017) (quoting 28 U.S.C. § 636(b)(1)). Regardless of whether timely objections are made, district courts may accept, reject, or modify—in whole or in part—the magistrate judge's findings or recommendations. 28 U.S.C. § 636(b)(1); Local Rule 72.31.

[1] Notably, although the Report and Recommendation has not been returned as undeliverable, a prior order was returned as undeliverable (ECF No. 81), and a Report and Recommendation issued in a separate civil matter was returned as undeliverable with a notation that Krushin was released from custody. *Krushin v. SCI-Waymart*, 4:16-cv-01545 (M.D. Pa. ECF No. 93). A search utilizing the Pennsylvania Department of Corrections Inmate Locator reveals no results for Krushin.

Krushin did not file objections to the report and recommendation, although it is unclear if Krushin received this Court's mailing. Even conducting de novo review of the magistrate judge's recommendation, the Court finds no error in the recommendation. Consequently, it is hereby ordered that:

1. Magistrate Judge Martin C. Carlson's Report and Recommendation (ECF No. 82) is **ADOPTED IN ITS ENTIRETY**;
2. Moving Defendants' motion to dismiss (ECF No. 54) is **GRANTED IN PART**;
3. Krushin's claims predicated solely upon Moving Defendants' supervisory status and all claims related to actions occurring on or before February 6, 2015, are **DISMISSED**; and
4. Within 21 days of the date of this Order, Krushin shall provide the Court with (1) his current address and (2) a more definite statement of his remaining claims. Failure to comply will be deemed abandonment of this action, and Krushin's complaint will be subject to dismissal without further warning.

BY THE COURT:

s/ Matthew W. Brann
Matthew W. Brann
United States District Judge