

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

COREY BRACEY,)	
)	
Plaintiff,)	Civil Action No. 11-217 E
)	
v.)	Judge Cathy Bissoon ¹
)	Magistrate Judge Maureen P. Kelly
)	
SECRETARY JEFFREY BEARD, <i>et al.</i> ,)	
)	
Defendants.)	

MEMORANDUM ORDER

For the reasons that follow, Judge Kelly’s September 11, 2013 Memorandum Order will be affirmed.

Plaintiff Corey Bracey, an inmate at the State Correctional Institution at Graterford, brings this civil rights action against numerous officials of the Pennsylvania Department of Corrections (among others), claiming that his rights under the Eighth and Fourteenth Amendments were violated when he was illegally housed in the Special Management Unit at SCI Fayette and then, on the basis of that improper designation, improperly placed on the Restricted Release List at SCI Fayette and other state correctional facilities. The matter was referred to U.S. Magistrate Judge Maureen P. Kelly for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. §§ 636(b)(1)(A) and (B), and Rules 72.C and 72.D of the Local Rules for Magistrates.

¹ The Honorable Sean J. McLaughlin was the original presiding U.S. District Judge in this matter. Following Judge McLaughlin’s departure from the bench, the case was reassigned to U.S. District Judge Terrence F. McVerry and subsequently transferred to the undersigned on August 29, 2013.

On August 29, 2013, Plaintiff filed a motion for the Magistrate Judge's recusal (Doc. 92). Judge Kelly denied this motion by Memorandum Order entered on September 11, 2013 (Doc. 96). This appeal (Doc. No. 99) followed.

District courts may reconsider and set aside a magistrate judge's ruling on a non-dispositive pre-trial issue only if it is "clearly erroneous or contrary to law." 28 U.S.C. §636(b)(1)(A); LCvR 72(C)(2). *See* also Fed. R. Civ. P. 72(a). A magistrate judge's refusal to recuse from a case constitutes a non-dispositive ruling subject to this deferential standard. *See Reid v. Moore*, No. C-3:05-cv-326, 2009 WL 3857429 at *1-2 (S.D. Ohio Nov. 16, 2009)

Having carefully reviewed the Magistrate Judge's September 11, 2013 decision and Plaintiff's objections thereto, the Court concludes that Judge Kelly's Memorandum Order was neither clearly erroneous nor contrary to law. Accordingly, Plaintiff's Objections (**Doc. 99**) are **OVERRULED**, and the Memorandum Order of Judge Kelly dated September 11, 2013 (**Doc. 96**) is **AFFIRMED**.

IT IS SO ORDERED.

September 24, 2013

s/Cathy Bissoon
Cathy Bissoon
United States District Judge

cc (via ECF email notification):

All Counsel of Record

cc (via First-Class U.S. Mail):

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