

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

GABRIEL ROSA-DIAZ,)	
Plaintiff,)	
)	C.A. No. 16-155 Erie
v.)	
)	
M. OVEMYER, et al,)	
Defendants.)	

MEMORANDUM ORDER

This prisoner civil rights action was received by the Clerk of Court on June 21, 2016, and was referred to United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates. The magistrate judge's report and recommendation, filed on May 10, 2017, recommended that the motion to sever [ECF No. 23] and the motion for joinder as to the motion to sever [ECF No. 40] be granted. It was further recommended that this action be severed. The factual allegations and legal claims at ¶¶ 47-143 should remain in the instant action. All remaining claims should be dropped from this action. Because only Defendants CO Friedline, CO Schlemmer, Lt. Heffernan, Siegel, Captain Mongelluzzo, Overmyer, J.A. Horton, and Varner are mentioned in ¶¶ 47-143, all other Defendants should be terminated from this docket. Service was made on Plaintiff by mail at SCI Camp Hill, where he is incarcerated, and on Defendants. Objections were filed by the Plaintiff on

May 18, 2017. After de novo review of the petition and documents in the case, together with the report and recommendation and objections thereto, the following order is entered:

AND NOW, this 19th Day of May, 2017;

IT IS HEREBY ORDERED that the motion to sever [ECF No. 23] and the motion for joinder as to the motion to sever [ECF No. 40] are GRANTED. It is further ORDERED that this action be severed. The factual allegations and legal claims at ¶¶ 47-143 shall remain in the instant action. All remaining claims are dismissed from this action. Because only Defendants CO Friedline, CO Schlemmer, Lt. Heffernan, Siegel, Captain Mongelluzzo, Overmyer, J.A. Horton, and Varner are mentioned in ¶¶ 47-143, the Clerk is ORDERED to terminate all other Defendants from this docket.

The report and recommendation of Magistrate Judge Baxter, dated May 10, 2017, is adopted as the opinion of the court.

May 19, 2017


KIM R. GIBSON
United States District Judge

cc: Susan Paradise Baxter
U.S. Magistrate Judge

all parties of record _____