

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

MARVIN MARMOLEJOS and KEVIN WILLIAMS, Plaintiffs, v. GLOBAL TEL\*LINK CORPORATION, et al., Defendants. C.A. No. 17-13 Erie District Judge Susan Paradise Baxter Magistrate Judge Richard A. Lanzillo

MEMORANDUM ORDER

This action was commenced by the filing of a Complaint, accompanied by a motion to proceed in forma pauperis, on January 18, 2017, against Defendants Pennsylvania Department of Corrections ("DOC") and Global Tel\*Link Corporation ("Global"). The case was assigned to United States District Judge Barbara Rothstein, as presiding judge, and was referred to the undersigned, who was then a United States Magistrate Judge, for all pretrial matters.

By Order dated March 12, 2018, District Judge Rothstein adopted the undersigned's Report and Recommendation [ECF No. 135] and granted the DOC's motion to dismiss for failure to state a claim [ECF No. 141], leaving Global as the only Defendant in this case. On June 7, 2018, Plaintiffs filed a motion for summary judgment [ECF No. 152], and Defendant Global filed its own motion for summary judgment on June 15, 2018 [ECF No. 155].

On September 14, 2018, the undersigned was sworn in as a United States District Judge, and this case was reassigned to this Court's docket on September 18, 2018. This matter was thereafter referred to newly appointed United States Magistrate Judge Richard A. Lanzillo 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.

On January 9, 2019, Judge Lanzillo issued a Magistrate Judge's Report and Recommendation ("R&R") recommending that Plaintiffs' motion for summary judgment and request for class certification be denied, and that Defendant's motion for summary judgment be granted as to Plaintiffs' § 1983 claims against Defendant, but denied as to Plaintiff's supplemental state law claims, with the further recommendation that the supplemental claims be dismissed without prejudice to Plaintiffs' right to re-file the same in state court. [ECF No. 172]. Service of the R&R was made on Plaintiffs at their addresses of record, via first class United States mail. Objections to the R&R were due from Plaintiffs by February 22, 2019; however, no objections have been filed.

After de novo review of the motions and documents in this case, together with the report and recommendation, the following order is entered:

AND NOW, this 28th day of February, 2019;

IT IS HEREBY ORDERED that Defendant's motion for summary judgment [ECF No. 155] is GRANTED as to Plaintiff's § 1983 claims against Defendant, but denied as to Plaintiff's supplemental claims, insofar as said claims are DISMISSED without prejudice to Plaintiff's right to re-file the same in state court. IT IS FURTHER ORDERED that Plaintiffs' motion for summary judgment [ECF No. 152] and request for certification of a class action are DENIED. The report and recommendation of Magistrate Judge Lanzillo, dated January 9, 2019 [ECF No. 172], is adopted as the opinion of the court.

The Clerk is directed to mark this case closed.



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SUSAN PARADISE BAXTER  
United States District Judge

cc: Richard A. Lanzillo  
U.S. Magistrate Judge