

¥

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

WARREN EASLEY,)	
Plaintiff,)	
)	C.A. No. 19-223 Erie
)	
v.)	
REUBERG, et al.,)	District Judge Susan Paradise Baxter
Defendants.)	Magistrate Judge Richard A. Lanzillo

MEMORANDUM ORDER

Plaintiff Warren Easley, an inmate incarcerated at the State Correctional Institution at Forest in Marienville, Pennsylvania (“SCI-Forest”), initiated this *pro se* civil rights action on August 9, 2019, against multiple staff members of SCI-Forest, identified as Adams, Gill, Oberlander, Rehrer, Sawtelli, and Simon (herein collectively referred to as “Corrections Defendants”), and two outside medical providers, Renberg (incorrectly identified by Plaintiff as “Reuberg”) and Byers.¹ The case was referred to 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. This matter was subsequently reassigned to the undersigned, as presiding judge, on August 27, 2019, with Judge Lanzillo remaining as the referred Magistrate Judge for all pretrial proceedings.

On January 6 and January 8, 2021, respectively, the Corrections Defendants and Defendant Renberg each filed a motion to dismiss this case [ECF Nos. 49, 50] based on

¹
Plaintiff’s claims against Defendant Byers have since been dismissed by the Court by Order dated May 12, 2020 [ECF No, 38].

Plaintiff's failure to file his pretrial statement, which was initially due on November 19, 2019, and thereafter, by extension, on December 19, 2020. In addition, on January 11, 2021, Defendant Renberg filed a motion for summary judgment [ECF No. 51], together with a concise statement of material facts [ECF No. 53]. Plaintiff failed to file a response to any of the motions, and also failed to file a response to Defendant Renberg's concise statement of material facts. However, Plaintiff did file a motion to correct the record on February 5, 2021 [ECF No. 61] informing the Court that he was having difficulty responding to Defendants' motions and the Court's Orders because of Covid-19 restrictions and problems with the mail service.

On May 10, 2021, Magistrate Judge Lanzillo issued a Report and Recommendation [ECF No. 70] recommending that Defendants' motions to dismiss [ECF Nos. 49, 50] be denied, finding that Plaintiff's failure to comply with deadlines did "rise to the level necessary to dismiss his case." However, as a penalty for Plaintiff's failure to respond to Defendant Renberg's concise statement of material facts, Judge Lanzillo recommends further that all properly supported material facts stated in Defendant Renberg's concise statement be deemed admitted pursuant to the Court's Local Rule 56(E). Objections to the R&R were due to be filed by May 27, 2021; however, no objections have been received from either party.

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

AND NOW, this 3rd day of June, 2021;

IT IS HEREBY ORDERED that the motions to dismiss for failure to prosecute filed by the Corrections Defendants [ECF No. 49] and Defendant Renberg [ECF No. 50] are DENIED, and all properly supported material facts stated in Defendant Renberg's concise statement [ECF No.

53] are deemed admitted pursuant to the Local Rule 56(E). The report and recommendation of Magistrate Judge Lanzillo, issued May 10, 2021 [ECF No. 70], is adopted as the opinion of the court.


SUSAN PARADISE BAXTER
United States District Judge

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