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

ANTHONY DAY, **Plaintiff,**	)	
	)	**C.A. No. 23-222 Erie**
v.	)	
	)	**District Judge Susan Paradise Baxter**
DR. LAUREL HARRY, et al., **Defendants.**	)	**Magistrate Judge Richard A. Lanzillo**

MEMORANDUM ORDER

Plaintiff Anthony Day, an inmate incarcerated at the State Correctional Institution at Houtzdale, Pennsylvania ("SCI-Houtzdale"), initiated this civil rights action by filing a motion to proceed *in forma pauperis* ("ifp motion"), accompanied by a *pro se* complaint on July 26, 2023. The matter was referred to Chief 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.

Plaintiff's ifp motion was granted by Order dated February 2, 2024 [ECF No. 12], and the complaint was docketed at such time [ECF No. 14]. The complaint asserts claims under the first and fourteenth amendments to the United States Constitution, the Americans with Disabilities Act, 42 U.S.C. § 12132 ("ADA"), Section 504 of the Rehabilitation Act, 29 U.S.C. § 794 ("RA"), and Pennsylvania tort law, arising from the medical treatment Plaintiff received for his Opioid Use Disorder at SCI-Albion, where he was previously incarcerated. As relief, the complaint seeks a "preliminary injunction to provide treatment with Sublocade," "permanent injunctive relief to maintain treatment with Sublocade while in custody of the DOC, declaratory

relief, and monetary damages.

Pending before the Court is Plaintiff's motion for temporary restraining order and/or preliminary injunction, which asks the Court to grant the "relief requested in his Complaint." [ECF No. 2].

On February 7, 2024, Chief Magistrate Judge Lanzillo issued a Report and Recommendation ("R&R") recommending that Plaintiff's motion for temporary restraining order be denied because Plaintiff has failed to demonstrate either an imminent risk of irreparable injury or a substantial likely of success on the merits, and that Plaintiff's motion for preliminary injunction be dismissed pending service of his complaint upon Defendants. [ECF No. 17]. Objections to the R&R were due to be filed by March 26, 2024; however, no timely objections have been filed.

Thus, after *de novo* review of Plaintiff's motion and relevant documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 27th day of March 2024,

IT IS HEREBY ORDERED that Plaintiff's motion for preliminary injunction and temporary restraining order [ECF No. 2] is DENIED to the extent the motion seeks a temporary restraining order and is DISMISSED as to Plaintiff's motion for preliminary injunction pending service of Plaintiff's complaint upon Defendants. The report and recommendation of Chief Magistrate Judge Lanzillo, issued February 7, 2024 [ECF No. 17], is adopted as the opinion of the court.

Susan Paradise Baxter

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United States District Judge

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