

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

SYLVESTER LEWIS,)	
Plaintiff,)	
)	C.A. No. 24-43 Erie
v.)	
)	District Judge Susan Paradise Baxter
MARK SUTHERLAND, et al.,)	Chief Magistrate Judge Richard Lanzillo
Defendants.)	

MEMORANDUM ORDER

Plaintiff Sylvester Lewis, an inmate incarcerated at the State Correctional Facility at Forest in Marienville, Pennsylvania, commenced this *pro se* civil rights action in the Court of Common Pleas of Forest County, Pennsylvania. The action was removed to this Court by Notice of Removal filed on February 15, 2024 [ECF No. 1], and 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 generally asserts that several medical providers and prison officials at SCI-Forest were deliberately indifferent to his serious medical needs because they disregarded his complaints of skipped heartbeats and arrhythmia and prescribed medications that were either ineffective or made things worse. Among the Defendants named in the complaint are four prescription medications: Zantac, Prilosec, Alvesco, and Atelenol.

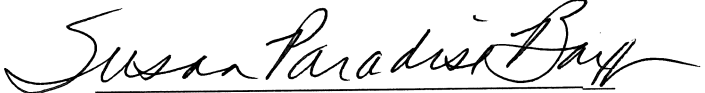
On May 1, 2024, Judge Lanzillo issued a report and recommendation (“R&R”) recommending that Plaintiff’s claims against Defendants Zantac, Prilosec, Alvesco, and Atelenol

be dismissed as legally frivolous in accordance with 28 U.S.C. § 1915(e), because they are not “persons” subject to suit under 42 U.S.C. § 1983, nor can they act under color of state law [ECF No. 11]. Timely objections to the R&R have been filed by Plaintiff [ECF No. 18]; however, they do nothing more than restate Plaintiff’s allegations.

After de novo review of the complaint, together with the report and recommendation and objections thereto, the following order is entered:

AND NOW, this 5th day of June, 2024;

IT IS HEREBY ORDERED that the report and recommendation of Chief Magistrate Judge Lanzillo, issued May 1, 2024 [ECF No. 11], is adopted as the opinion of the Court, and Plaintiff’s claims against Defendants Zantac, Prilosec, Alvesco, and Atelenol are DISMISSED as frivolous pursuant to 28 U.S.C. § 1915(e). The Clerk is directed to terminate said Defendants from this case.


SUSAN PARADISE BAXTER
United States District Judge

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

all parties of record