

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

ANDRE JACOBS,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 07-237
)	Judge Conti
DEBORAH BAYHA, <i>et al.</i> ,)	Magistrate Judge Bissoon
)	
Defendants.)	

MEMORANDUM ORDER

The civil rights suit filed by Andre Jacobs (“Plaintiff”) was commenced with the receipt of a complaint by the Clerk of Court on February 23, 2007 (Docket No. 1). The matter was referred to United States Magistrate Judge Francis X. Caiazza for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.C and 72.D of the Local Rules for Magistrate Judges. The case was later assigned to Magistrate Judge Bissoon.

The magistrate judge’s Report and Recommendation, filed on March 8, 2010 (Docket No. 76), recommended that defendants’ motion to substitute party (Docket No. 57) be granted, and that the motion for summary judgment filed by defendants Deborah Bayha, Jeremy Delano, Robert Potter, Joseph Moorhead and Robert Holtz (collectively “Defendants”)(Docket No. 59) be granted with respect to all claims save for the claims against defendant Jeremy Delano premised upon his alleged “choking” of Plaintiff. Objections were due on or before March 22, 2010, and none were filed.

After de novo review of the pleadings and documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 25th day of March, 2010,

IT IS HEREBY ORDERED that Defendants' Motion to Substitute Party (Doc. 57) is GRANTED. The United States of America is hereby substituted as the sole defendant with respect to Plaintiff's tort claim for battery, and shall be added to the caption as a party defendant.

IT IS FURTHER ORDERED that the Motion to Dismiss or for Summary Judgment filed by Defendants Deborah Bayha, Jeremy Delano, Robert Potter, Joseph Moorhead and Robert Holtz (Docket No. 59) is treated as a motion for summary judgment and is GRANTED with respect to all claims against those Defendants, and the tort claim now made against the United States, save for Plaintiff's claims against defendant Jeremy Delano premised upon his alleged "choking" of Plaintiff. The Report and Recommendation (Docket No. 76) dated March 8, 2010, is adopted as the opinion of the court.

/s/Joy Flowers Conti
Joy Flowers Conti
U.S. District Court Judge

cc:
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