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

JAMAR TRAVILLION,)	
Plaintiff,)	Civil Action No. 07-928
v.)	Judge Cercone
ALLEGHENY COUNTY BUREAU OF)	Magistrate Judge Bissoon
CORRECTIONS, et al.,)	
Defendants.)	

MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

I. <u>RECOMMENDATION</u>

For the reasons that follow, it is respectfully recommended that Plaintiff's Motion for Summary Judgment addressed to the Allegheny County Defendants¹ (Doc. 144) be denied.

II. REPORT

Plaintiff Jamar Travillion is an inmate confined at the State Correctional Institution at Rockview, located in Bellefonte, Pennsylvania. Travillion alleges that he was assaulted on July 2, 2005, while incarcerated at the Allegheny County Jail ("Jail"), and that this was done in retaliation for lawsuits he previously filed against the Jail and Jail personnel. Travillion also asserts numerous other claims of improper treatment that purportedly occurred on dates subsequent to July 2, 2005, extending into 2006. He asserts claims under the First, Fourth, Fifth, Eighth and Fourteenth Amendments to the United States Constitution, various articles of the

Defendants Allegheny County Bureau of Corrections, Onorato, Rustin, Reese, Pofi, Flood, Maust, Henna, Louis Leon, Cestra, Demore, Igims, Pfeifer, Kovacs, Rapneth, Deisher, Youker, Debrowski, Jialanella, Yannotti, Bednarick, Greenawalt, Parkenson, Corrado and Crossey will be referred to collectively as the "Allegheny County Defendants."

Pennsylvania Constitution, and common law claims for assault and battery, conversion, medical

malpractice and the intentional infliction of emotional distress.

Plaintiff has filed a Motion for Summary Judgment (Doc. 144) and a Brief in Support

(Doc. 145) in which he asserts that he is entitled to summary judgment because none of the

factual averments in his Complaint have been denied by the Allegheny County Defendants

(Doc. 145, pp. 5-6). The Allegheny County Defendants had not, in fact, filed an Answer at the

time Plaintiff's Motion for Summary Judgment was filed, but have since done so and have

denied all material allegations in Plaintiff's Complaint (Doc. 167).

The sole basis for Plaintiff's Motion for Summary Judgment (i.e., the Allegheny County

Defendants' failure to respond to the Complaint) has been defeated by the filing of an Answer

(Doc. 167). Plaintiff's Motion for Summary Judgment (Doc. 144) must, therefore, be denied.

In accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule

72.D.2 of the Local Civil Rules for Magistrates, objections to this Report and Recommendation

are due by February 4, 2010. Failure to timely file objections may constitute a waiver of any

appellate rights.

Dated: January 21, 2010

s/Cathy Bissoon

Cathy Bissoon

United States Magistrate Judge

cc:

JAMAR L. TRAVILLION, GS0389

SCI Rockview

Box A

Bellefonte, PA 16823