

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

ANDRE JACOBS,)	
)	Civil Action No. 08 – 470
Plaintiff,)	
)	Chief District Judge Joy Flowers Conti
v.)	Chief Magistrate Judge Lisa Pupo Lenihan
)	
PITTSBURGH POLICE)	
DEPARTMENT, <i>et al.</i> ,)	
)	
Defendants.)	

MEMORANDUM ORDER

AND NOW, this 10th day of July, 2014, after Defendants having filed Motions to Dismiss, which were converted into Motions for Summary Judgment (ECF Nos. 320 & 321); and after a Report and Recommendation was filed by Chief United States Magistrate Judge Lenihan on June 5, 2014, (ECF No. 366), recommending that the Motions be denied to the extent Defendants seek revocation of Plaintiff’s *in forma pauperis* status for violation of the “three strikes rule” codified in 28 U.S.C. § 1915(g) and that the Motions be denied without prejudice to the extent that Defendants seek dismissal for Plaintiff’s failure to exhaust his administrative remedies pursuant to the Prison Litigation Reform Act, 42 U.S.C. § 1997e(a); and after no objections to the Report and Recommendation were filed by the June 23, 2014 deadline; and upon consideration of the Report and Recommendation and an independent review of the record,

IT IS HEREBY ORDERED that the Report and Recommendation (ECF No. 366) is **ADOPTED** as the Opinion of this Court.

IT IS FURTHER ORDERED that for the reasons set forth in the Report and Recommendation, the Motions for Summary Judgment filed by the Allegheny County Defendants (ECF No. 320) and the Nurse Defendants (ECF No. 321) are **DENIED** to the extent they seek revocation of Plaintiff's *in forma pauperis* status and **DENIED** without prejudice to the extent they seek dismissal for Plaintiff's failure to exhaust his administrative remedies. Motions may be refiled closer to the trial of this matter so that the Court may conduct an evidentiary hearing and make a determination about the factual disputes on the issue of exhaustion of Plaintiff's administrative remedies.

By the Court:

/s/ Joy Flowers Conti
Joy Flowers Conti
Chief United States District Judge

cc: Andre Jacobs
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