

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

AND NOW, this 10th day of May, 2010,

IT IS HEREBY ORDERED that the Motion to Dismiss filed by Defendants (Doc No. 27), is **DENIED WITHOUT PREJUDICE**.

IT IS FURTHER ORDERED that pursuant to 28 U.S.C. § 1406(a), in the interests of justice, this case shall be transferred to the Southern District of West Virginia, Charleston Division, **FORTHWITH**.

IT IS FURTHER ORDERED that the Report and Recommendation (Doc. No. 30) of Magistrate Judge Lenihan, dated April 15, 2010, is adopted as the opinion of the Court.



DAVID STEWART CERCONE
United States District Judge

cc: All Counsel of Record
Via Electronic Mail

Robert A. Castapheny, *Pro Se*
JD-9263
SCI Houtzdale
P.O. Box 1000
Houtzdale, PA 16698
Via U.S. Mail