

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

JOHN CULLEN, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	CIVIL ACTION No. 09-1562
)	Judge Fischer
)	Magistrate Judge Bissoon
PENNSYLVANIA DEPARTMENT OF)	
CORRECTIONS, <i>et al.</i> ,)	
)	
Defendants.)	

MEMORANDUM ORDER

Plaintiff John Cullen is one of four state prisoners who, at the time this lawsuit was filed, were all incarcerated at the State Correctional Institution at Pittsburgh (“SCI-Pittsburgh”). Plaintiffs allege that a variety of practices and conditions at SCI-Pittsburgh violate their constitutional rights (Doc. 14). Plaintiffs purport to represent a class of prisoners, and make specific class action allegations in their complaint. This case was referred to United States Magistrate Judge Cathy Bissoon 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 Magistrates.

On July 23, 2010, Plaintiff Cullen moved this Court to issue an injunction against the Pennsylvania Department of Corrections (“DOC”) requiring the DOC to return him to SCI-Pittsburgh after he had been transferred to a different correctional institution. Pl.’s Mot. for Inj. (ECF No. 69) at 2. Various Defendants responded to Plaintiff’s motion on July 30, 2010. Def.s’ Resp. (ECF No.71). Plaintiff Cullen filed a reply on August 12, 2010.¹ (ECF No. 76).

¹ Plaintiff Cullen’s reply was not received Court until after the magistrate judge had issued her Report. However, the undersigned did review and consider this document prior to issuing this order.

On August 11, 2010, the magistrate judge issued a report and recommendation recommending that Plaintiff Cullen's motion be denied. Report (ECF No. 75) at 1. Additionally, the magistrate judge recommended that Plaintiffs' class action allegations be stricken from the complaint. Id. Plaintiff Perry filed objections to this report, see (ECF Nos. 79 and 80), in which he argued against striking the class action allegations from the complaint. This issue is ripe for disposition.

After *de novo* review of the pleadings and documents in the case, together with the report and recommendation (ECF No. 75) and Plaintiffs' objections and responses thereto, the following ORDER is entered:

AND NOW, this 19th day of January, 2011,

IT IS HEREBY ORDERED that Plaintiff Cullen's motion for injunctive relief (ECF No. 69) is DENIED.

IT IS FURTHER ORDERED that Plaintiffs' class action allegations be stricken from the complaint.

IT IS FURTHER ORDERED that the magistrate judge's report and recommendation (ECF No. 75) is adopted as the opinion of this Court on this matter.

s/Nora Barry Fischer
NORA BARRY FISCHER
UNITED STATES DISTRICT JUDGE

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