

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

MOTZIE L. CLAYTON,	)	
	)	
Plaintiff,	)	Civil Action No. 11-623
	)	
v.	)	District Judge Nora Barry Fischer
	)	
J. MORGAN, Captain,	)	
Defendant.	)	
	)	

**MEMORANDUM ORDER**

The above captioned case was filed in this Court on May 12, 2011 and was referred to a united states magistrate judge for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and the local rules of court.

On February 16, 2012, the Magistrate Judge filed a Report and Recommendation (ECF No. 31) recommending that Defendant's the Motion to Dismiss (ECF No. 13) be granted and that it would be futile to allow Plaintiff to file an amended complaint. On April 10, 2012, Plaintiff filed Objections to the Report and Recommendation and a Motion to Amend (ECF No. 35). Plaintiff's Objections do not undermine the recommendation of the Magistrate Judge. Nor is there any basis upon which to allow Plaintiff the opportunity to file an amended complaint.

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

**AND NOW**, this 25<sup>th</sup> day of April, 2012;

**IT IS HEREBY ORDERED** that Defendant's Motion to Dismiss (ECF No. 13) is **GRANTED**.

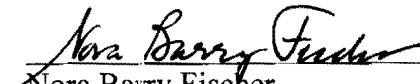
**IT IS FURTHER ORDERED** that Plaintiff's Motion to Amend (ECF No. 35) is **DENIED** as it would be futile to allow him the opportunity to amend.

**IT IS FURTHER ORDERED** that the Report and Recommendation (ECF. No. 31) dated February 16, 2012, is **ADOPTED** as the Opinion of the Court.

**IT IS FURTHER ORDERED** that the Clerk of Court mark this case **CLOSED**.

**AND IT IS FURTHER ORDERED** that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

By the Court:

  
\_\_\_\_\_  
Nora Barry Fischer  
United States District Judge

cc: Motzie L. Clayton  
JE6539  
SCI Greensburg  
165 SCI Lane  
Greensburg, PA 15601