

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

DEERING CARTER,	)	Civil Action No. 2:14-cv-01260
	)	
Plaintiff,	)	Senior United States District Judge
	)	Terrence F. McVerry
v.	)	
	)	
HARPER, WARDEN; SGT. REUBEL; JOHN SMITH, and OFFICER ZOLLER,	)	
Defendants.	)	

**MEMORANDUM ORDER**

This case was commenced on September 15, 2014, and was referred to United States Magistrate Judge Cynthia Reed Eddy for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and the Local Rules of Court for Magistrate Judges.

Defendants each filed a motion to dismiss (ECF Nos. 8 and 19) arguing that the Complaint should be dismissed for failure to state a claim. Plaintiff did not respond to the motions. In the absence of any timely response by Plaintiff, the magistrate judge deemed the motions to dismiss to be ripe for disposition and analyzed the Complaint on the merits. *Ray v. Reed*, 240 F. App’x 455, 456 (3d Cir. 2007).

On May 13, 2015, Magistrate Judge Eddy filed a Report and Recommendation (ECF No. 28) recommending that the motions to dismiss be granted. The Report and Recommendation was mailed to Plaintiff at his listed address of record, but was returned to the Court marked “return to sender, vacant, unable to forward.” (ECF No. 29.)<sup>1</sup> Plaintiff has not provided the

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<sup>1</sup> At the time Plaintiff commenced this lawsuit he was incarcerated at the Allegheny County Jail. On January 26, 2015, Plaintiff notified the Court that he had been released from the Allegheny County Jail and provided an address change of 7130 Frankstown Ave., Pittsburgh, PA 15208. (ECF No. 22.)

Court with a forwarding address and the Court has been unable to find a forwarding address for Plaintiff.

If and when Plaintiff provides a new address, the Court will send him a copy of the Report and Recommendation, as well as this Memorandum Order. Furthermore, in an abundance of caution, the Court will send this Order to Plaintiff at the only address he has provided the Court.

The Court has reviewed the matter and concludes that the Report and Recommendation correctly analyzes the issues and makes a sound recommendation. Accordingly, after de novo review of the pleadings and documents in the case, together with the Report and Recommendation, the following order is entered:

**AND NOW**, this 2nd day of June, 2015:

1. The Motions to Dismiss filed by Defendant John Smith and the County Defendants (ECF Nos. 8 and 19, respectively) are **GRANTED**; and

2. **IT IS FURTHER ORDERED** that the Report and Recommendation (ECF No. 28) dated May 13, 2015, 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:

s/Terrence F. McVerry  
Senior United States District Judge

cc: DEERING CARTER  
7130 Frankstown Avenue  
Pittsburgh, PA 15208  
(via U.S. First Class Mail)

Dennis R. Biondo, Jr.  
Allegheny County Law Department  
(via ECF electronic notification)

Alan S. Gold  
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(via ECF electronic notification)