

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

SHAWN LEE WHITENIGHT,)

Plaintiff,)

vs.)

THOMAS ELBEL, WARDEN JEFFERSON)
COUNTY JAIL; PRIME CARE MEDICAL,)
MEDICAL VENDER JEFFERSON)
COUNTY JAIL; SUSAN ROSSINO, M.D.)
JEFFERSON COUNTY JAIL; JILL)
CLARK, PA-C, SITE MANAGER)
JEFFERSON COUNTY JAIL; JENIPHER)
PURCE, L.P.N.; AND DR. TERRI)
CALVERT,)

Defendants,)

2:16-CV-00646-CRE

ORDER

AND NOW, this 5th day of December, 2017, it is HEREBY ORDERED that Defendants Jill Clark and Prime Medical Care's motion to dismiss [ECF No. 44], Defendant Susan Rossino's motion to dismiss [ECF No. 46], Defendant Thomas Elbel's motion to dismiss [ECF No. 48], and Defendants Terri Calvert and Jenipher Purce's motion to dismiss [ECF No. 85] are **GRANTED IN PART** and **DENIED IN PART** as follows:

IT IS HEREBY ORDERED that Defendants' motions are **GRANTED** with respect to the following claims that are dismissed with prejudice:

- (1) Plaintiff's claim for injunctive and declaratory relief against all Defendants;
- (2) Plaintiff's 42 U.S.C. § 1983 claim for deliberate indifference to serious medical needs pursuant to the Fourteenth Amendment against Warden Elbel;
- (3) Plaintiff's 42 U.S.C. § 1983 claim for deliberate indifference pursuant to the Fourteenth Amendment against Dr. Rossino, Dr. Calvert, PA-C Clark and L.P.N. Purce insofar as he alleges that he was denied medical treatment

due to cost, and that he was denied medical treatment due to the rescheduling of appointments;

(4) Plaintiff's 42 U.S.C. § 1983 claim for deliberate indifference in violation of the Fourteenth Amendment pursuant to Monell against Prime Care;

(5) Plaintiff's 42 U.S.C. § 1983 conspiracy claim against all Defendants; and

(6) Plaintiff's negligent infliction of emotional distress claim against Warden Elbel.

IT IS FURTHER ORDERED that Defendants' motions are **DENIED** with respect to the following:

(1) Plaintiff's 42 U.S.C. § 1983 claim for deliberate indifference pursuant to the Fourteenth Amendment against Dr. Rossino, Dr. Calvert, PA-C Clark and L.P.N. Purce insofar as Plaintiff alleges that their decision to not order an MRI for Plaintiff and/or refer him to a specialist for six months was deliberately indifferent to his serious medical needs;

(2) Plaintiff's 42 U.S.C. § 1983 claim for due process violations pursuant to the Fourteenth Amendment against Warden Elbel, Dr. Rossino, Dr. Calvert, PA-C Clark and L.P.N. Purce for Plaintiff's placement in solitary confinement and/or on suicide watch;

(3) Plaintiff's 42 U.S.C. § 1983 claim for retaliation in violation of the First Amendment against Warden Elbel, Dr. Rossino, Dr. Calvert, PA-C Clark and LPN Purce;

(4) Plaintiff's NIED claim against Dr. Rossino, Dr. Calvert, PA-C Clark and L.P.N. Purce;

(5) Plaintiff's intentional infliction of emotional distress claim against all Defendants;

(6) Plaintiff's medical negligence claim against Dr. Rossino, Dr. Calvert, PA-C Clark and L.P.N. Purce;

(7) Plaintiff's corporate negligence claim against Prime Care; and

(8) Plaintiff's claim for punitive damages.

IT IS FURTHER ORDERED that Defendants shall file their respective Answers
by **January 5, 2018.**

By the Court:

s/ Cynthia Reed Eddy
Cynthia Reed Eddy
United States Magistrate Judge

cc: SHAWN LEE WHITENIGHT
182 Evansville Road
Berwick, PA 18603

all registered counsel via CM-ECF