

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

ALTON D. BROWN,)	
)	
Plaintiff,)	
)	
vs.)	Civil No. 16-cv-1081
)	
TOM WOLF, et. Al. ,)	
)	
Defendants.)	

MEMORANDUM OPINION and ORDER

This case was referred to United States Magistrate Judge Cynthia Reed Eddy for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1)(A) and (B), and Local Rule of Civil Procedure 72. On March 24, 2022, the Magistrate Judge issued a Report and Recommendation, recommending denying Plaintiff Alton D. Brown’s Motion for Temporary Restraining Order [and] Motion for Preliminary Injunction (ECF No. 504) and denying Mr. Brown’s Motion to Produce Relevant Documents and Things (ECF No. 528). ECF No. 529. The parties were informed that objections to the Report and Recommendation were due by April 7, 2022 for the electronically registered Defendants, and by April 11, 2022 for the non-electronically registered party Plaintiff. Mr. Brown timely filed “Objections to Magistrate Judge’s Report of Recommendation Upholding the Defendant’s Retaliatory, Sabotaging Attacks of Plaintiff.” ECF No. 533.

Also before the Court is Mr. Brown’s Appeal to the District Court Judge from Magistrate’s Order Dated 4/22/22 (Doc# 539); and Request to Supplement his Motion for Preliminary Injunction (Doc# 504) with his Motion for Assistance (Doc# 532) and Emergency Motion for Court Order (Doc# 538). ECF No. 544. As is evident from the title of the Appeal, it

is related to Mr. Brown's Motion for Temporary Restraining Order [and] Motion for Preliminary Injunction (hereinafter "Motion for Injunctive Relief"). Directly related to resolution of Mr.

Brown's Motion for Injunctive Relief and the Appeal are the following pleadings:

- Declaration in Support of Motion for Injunctive Relief (ECF No. 505);
- Brief in Support of Motion for Injunctive Relief (ECF No. 506);
- Exhibits in Support of Motion for Injunctive relief (ECF No. 507);
- Defendants' Responses to Motion for Injunctive Relief (ECF Nos. 518, 519 & 520);
- Plaintiff's Reply to Defendants' Responses (ECF No. 526); and
- Exhibits in Support of Plaintiff's Reply (ECF No. 527);
- Motion for Assistance (ECF No. 532); and
- Emergency Motion for Court Order (ECF No. 538).

The Magistrate Judge recommended that Mr. Brown's Motion for Injunctive Relief be denied because it raises issues "entirely different from those raised in the complaint." ECF No. 529, at 2 (quoting Lee v. Lindsay, No. 06-1824, 2007 WL 1120562, at *1 (M.D.Pa. April 13, 2007¹)). As summarized by the Magistrate Judge, the "claims in this case are limited to whether Defendants have been deliberately indifferent and/or refused to properly treat Mr. Brown's serious medical needs (prostate cancer) and his related health problems, including related pain and side effects." ECF No. 529, at 2. Mr. Brown seeks injunctive relief in the form of an Order restraining Defendants (and others) from preventing and sabotaging Mr. Brown's efforts to prosecute his lawsuit. The instant alleged acts cited by Mr. Brown concern retaliatory and abusive cell searches, physical assaults, restricting access to legal materials, and scattering and disassembling Mr. Brown's case files with other files.

¹ Attached as Exhibit A.

The Court agrees that Mr. Brown's request for injunctive relief concerns matters outside the issues in the present lawsuit. "[P]reliminary injunctions should not be granted when they deal with issues 'wholly outside the issues in the suit,' and seek intermediate relief of a different character than the relief ultimately sought." Jones v. Sec'y Pennsylvania Dep't of Corr., 589 F. App'x 591, 594 (3d Cir. 2014) (citing De Beers Consol. Mines v. United States, 325 U.S. 212, 220 (1945)). The remaining claims in this lawsuit are claims of deprivation of the Eighth Amendment right to medical care and one claim of Intentional Infliction of Emotional Distress.² In contrast, Mr. Brown's request to restrain Defendants and others from alleged retaliatory conduct, involves matters outside the issues of this case. Jones, 589 F. App'x at 594 ("alleged ongoing retaliation against [defendant] is an issue wholly outside whether the defendants violated the Eighth Amendment.") Accordingly, injunctive relief was properly denied.

Similarly, Mr. Brown's Appeal of the Magistrate Judge's April 22, 2022 Text Order, which denied Mr. Brown's Motion for Assistance and his Emergency Motion for Court Order, concerns events that are also unconnected to the issues in this lawsuit. Upon review of Mr. Brown's Appeal of the Denial of his related Motion for Assistance and Emergency Motion for Court Order, the Court finds that the decision of the Magistrate Judge is not clearly erroneous, contrary to law, or an abuse of discretion. .

² Mr. Brown's First Amendment retaliation claims have been dismissed. Op. and Order, Aug. 12, 2021, ECF No. 448. The Court is aware that Mr. Brown intends to file a Motion for Reconsideration of the August 12, 2021 Opinion and Order.

ORDER

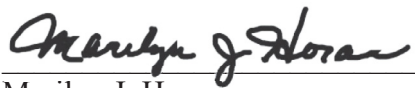
AND NOW, this 4th day of May 2022, following a de novo review of the relevant pleadings and documents in this case, together with the Report and Recommendation, and Objections thereto, the Court finds that Plaintiff's Objections do not undermine the recommendations of the Magistrate Judge.

Accordingly, it is hereby ORDERED that the Report and Recommendation, ECF No. 529, dated March 24, 2022, is ADOPTED as the Opinion of the Court. Mr. Brown's Motion for Temporary Restraining Order [and] Motion for Preliminary Injunction (ECF No. 504) is DENIED.

IT IS FURTHER ORDERED that Mr. Brown's Motion to Produce Relevant Documents and Things (ECF No. 528) is DENIED.

IT IS FURTHER ORDERED that Mr. Brown's Appeal to the District Court Judge from Magistrate's Order Dated 4/22/22 (ECF No. 539) is denied.

This matter is referred back to the Magistrate Judge for further proceedings.


Marilyn J. Horan
United States District Court Judge

cc: Alton D. Brown, pro se
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