

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

RICHARD LONEY BOOZER,)	
)	Civil Action No. 2: 16-cv-1232
Plaintiff,)	
)	United States District Judge
v.)	Kim R. Gibson
)	
ANGELA RIGGENBACH, et al.,)	United States Magistrate Judge
Defendants.)	Cynthia Reed Eddy

MEMORANDUM ORDER

This case was commenced on August 15, 2016, 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.

Two motions to dismiss the Amended Complaint are pending: (i) the Motion to Dismiss filed by the DOC Defendants (ECF No. 34) and (ii) the Motion to Dismiss filed by the Medical Defendants. (ECF No. 39). Both motions seek to have the Amended Complaint stricken for Plaintiff's failure to comply with the threshold requirements of the Federal Rules of Civil Procedure.

On January 29, 2018, Magistrate Judge Eddy filed a Report and Recommendation (ECF No. 52) recommending that the motions to dismiss be granted to the extent the Amended Complaint should be stricken for failure to comply with the Federal Rules of Civil Procedure, but also recommending that Plaintiff should be given one final opportunity to file a Second Amended Complaint that complies with the Federal Rules of Civil Procedure. Plaintiff was served with the Report and Recommendation at his listed address and was advised that he had until February 16, 2018, to file written objections to the Report and Recommendation.

On February 14, 2018, the Court received Plaintiff's Motion for Extension of Time to file a Second Amended Complaint. (ECF No. 53). In his motion, Plaintiff indicates that he "adopts the January 29, 2018 Report and Recommendation insofar as the recommendation to file a Second Amended Complaint." *Id.* at 2. Plaintiff states that he has prepared a Second Amended Complaint and seeks a 90 day extension in order to "photocopy and mail to this Court and all interested parties or their appointed attorneys" his Second Amended Complaint. *Id.*

After *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, and the Plaintiff's Motion for an Extension of Time to file a Second Amended Complaint, the following order is entered:

AND NOW, this 28th day of February, 2018:

1. Defendants' motions to dismiss (ECF Nos. 34 and 39) are **GRANTED** to the extent that Plaintiff's Amended Complaint (ECF No. 24) is stricken;
2. **IT IS FURTHER ORDERED** that the Report and Recommendation (ECF No. 52) dated January 29, 2018, is **ADOPTED** as the Opinion of the Court;
3. Plaintiff's motion for an extension of time to file a Second Amended Complaint (ECF No. 53) is **GRANTED IN PART AND DENIED IN PART**. The Motion is **GRANTED** to the extent that Plaintiff is granted leave to file a Second Amended Complaint. Plaintiff is cautioned that if the Second Amended Complaint does not comply with the Federal Rules of Civil Procedure, as described in the report and recommendation, the complaint will be dismissed for failure to comply with a Court order. Plaintiff is also reminded that to the extent that he believes that he has been subjected to more than one violation of his constitutional rights, and to the extent those violations are unrelated to each other, he should file separate complaints addressing each violation along with separate motions to proceed *in forma pauperis*; and

4. Plaintiff's motion is **DENIED** to the extent that Plaintiff has requested 90 days to file the Second Amended Complaint. Plaintiff need file only one copy of his Second Amended Complaint. He should not mail any copies to the other parties in this lawsuit as Defendants will receive a copy electronically through the Court's ECF system. Plaintiff shall have until **March 26, 2018**, to file his Second Amended Complaint with the Court. No further extensions will be granted without good cause.

BY THE COURT:



Kim R. Gibson
United States District Judge

cc: RICHARD LONEY BOOZER
CS-5766
SCI Houtzdale
PO Box 1000
Houtzdale, PA 16698
(via U.S. First Class Mail)

All Counsel of Record
(via ECF electronic notification)