

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

GEORGE DALIE,	)	
	)	Civil Action No. 2: 16-cv-1448
Plaintiff,	)	
	)	
v.	)	Judge Mark R. Hornak
	)	
FNU GUMBERT, et al.,	)	
	)	
Defendants.	)	

**ORDER**

**AND NOW**, this 26th day of February, 2018, it is hereby **ORDERED, ADJUDGED, AND DECREED** that for the reasons set forth in the accompanying memorandum opinion, the Motion to Dismiss filed by Defendants (ECF No. 15), which has been converted into a motion for summary judgment, is **GRANTED IN PART AND DENIED IN PART**, as follows:

1. The motion is **GRANTED** as to Plaintiff's claims in Count Three of the Complaint that he was sexually harassed / assaulted by Defendant C/O Carter on April 5, 2015, based on Plaintiff's failure to exhaust his administrative remedies; and

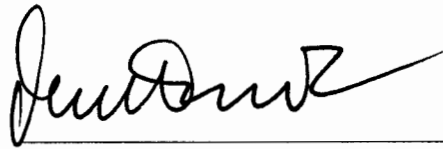
2. The motion is **GRANTED** as to all claims against Defendant Tracy Shawley and Jane Doe(s), RNs, based on Plaintiff's failure to exhaust his administrative remedies. Defendants Shawley and the Jane Doe(s), R.N.s are hereby dismissed from this lawsuit.

3. The motion is **DENIED** without prejudice on Plaintiff's claims that he was assaulted by Defendant C/O Gumbert and that Defendant C/O Elynoff failed to protect him from such assault(s); and

4. The motion is **DENIED** without prejudice on Plaintiff's claims that Defendants C/O Gumbert and C/O Carter retaliated against him by misappropriating his legal property.

It is further **ORDERED** that the Report and Recommendation (ECF No. 30) dated January 24, 2018, is **ADOPTED** as the Opinion of the Court.

And it is further **ORDERED** that Defendants C/O Gumbert, C/O Elynoff, and C/O Carter shall file a responsive pleading in accordance with Federal Rule of Civil Procedure 12(a)(4).



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Mark R. Hornak  
United States District Judge

cc: Plaintiff (by U.S. Mail)  
All counsel of record