

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

STEVEN JEAN-PIERRE,)	
)	Civil Action No. 09-266J
Plaintiff,)	
)	District Judge Kim R. Gibson
v.)	
)	
BUREAU OF PRISONS, JOHN YOST,)	
Warden, FCI Loretto; and MARYANN)	
PALKO, FCI Loretto Religious Chaplain,)	
)	
Defendants.)	

MEMORANDUM ORDER

The above captioned case was initiated on October 8, 2009 by the filing of a Civil Rights Complaint and a motion to proceed *in forma pauperis*. It was referred to a magistrate judge for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

The Magistrate Judge's Report and Recommendation filed on July 30, 2010 (ECF No. 26) recommended that Defendants' Motion to Dismiss or in the alternative, for Summary Judgment (ECF no. 18) be treated solely as a motion to dismiss and be granted as to Plaintiff's claims against the federal Bureau of Prisons (BOP) and against the individual Defendants in their official capacity and denied in all other respects without prejudice to Defendants refiling a proper summary judgment motion and allowing Plaintiff to conduct relevant discovery. Plaintiff filed Objections to the Report and Recommendation on August 18, 2010 (ECF No. 27). The objections do not undermine the recommendation.

After *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, and the Objections thereto, the following order is entered:

AND NOW, this 27th day of September, 2010;

IT IS HEREBY ORDERED that Defendants' Motion to Dismiss or in the alternative, for Summary Judgment (ECF no. 18), will be treated solely as a motion to dismiss and is **GRANTED IN PART AND DENIED IN PART**: specifically, the motion to dismiss is **GRANTED** as to Plaintiff's claims against the BOP and against the individual Defendants in their official capacity; it is **DENIED** in all other respects without prejudice to Defendants refiling a proper summary judgment motion and allowing Plaintiff the opportunity to conduct relevant discovery.

IT IS FURTHER ORDERED that the Report and Recommendation (ECF No. 26) is **ADOPTED** as the Opinion of the Court.

By the Court:



Kim R. Gibson
Kim R. Gibson
United States District Judge

cc: Steven Jean-Pierre
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Schuylkill
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