

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

TYRONE GEARY,)	Case No. 3:14-cv-106
)	
Plaintiff,)	JUDGE KIM R. GIBSON
)	
v.)	
)	
SERGEANT JOHN DOE #1, et al.,)	
)	
Defendants.)	

MEMORANDUM ORDER

Tyrone Geary, an inmate at SCI Albion, filed this case on May 28, 2014, against several Pennsylvania Department of Corrections employees at SCI Somerset over an alleged assault that occurred while Geary was confined at SCI Somerset. Geary's complaint names Sergeant John Does #1 through #5, David Onstead, and Correctional Officer Coutts as Defendants.

Pursuant to 28 U.S.C. § 636 and Local Civil Rule 72, Geary's case was referred to a magistrate judge for pretrial proceedings. After screening Geary's complaint pursuant to 28 U.S.C. § 1915A, the Magistrate Judge issued an order, report and recommendation (ECF No. 5), recommending that Geary's complaint be dismissed in part for failure to state a claim and served in part. Specifically, the Magistrate Judge recommended dismissal for failure to state a claim with respect to John Does #3 through #5 and ordered service on Onstead and Coutts. The Magistrate Judge also noted that service would be ordered on John Does #1 and #2 if their identity was revealed during discovery, and that Geary would be permitted to amend his complaint with respect to John Doe #3.

Geary filed no objections to the Magistrate Judge's order, report and recommendation and the case proceeded to discovery. Discovery concluded some time ago and the case appears ready for trial, though the Court never ruled on the Magistrate Judge's order, report and recommendation. The Court was remiss in not ruling on that report and recommendation earlier but will do so now. Because Geary filed no objections to the Magistrate Judge's order, report and recommendation (ECF No. 5) and because no clear error is apparent on the face of

the record, the Court hereby adopts the Magistrate Judge's order, report and recommendation.¹
A pretrial order follows separately.

Dated: July 25, 2017

BY THE COURT:



KIM R. GIBSON
UNITED STATES DISTRICT JUDGE

¹ When parties do not timely object to a magistrate judge's report and recommendation, the Federal Magistrates Act does not require a district court to review the report before accepting it. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985). Nevertheless, as a matter of good practice the Third Circuit expects district courts to "afford some level of review to dispositive legal issues raised by the report." *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987). Thus, when no objections are filed, "the district court is required only to review the record for 'clear error' prior to accepting a magistrate judge's recommendation." *Cobbs v. Wynder*, No. 05-cv-1966, 2006 WL 559449, at *1 (M.D. Pa. Mar. 7, 2006); *see also Tice v. Wilson*, 425 F. Supp. 2d 676, 680 (W.D. Pa. 2006) (holding that the court's review is conducted under the "plain error" standard).