

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

ADALBERTO CASTRO,	)	
Plaintiff,	)	Civil Action No. 3:14-cv-273
	)	United States District Judge
v.	)	Kim R. Gibson
	)	
SUPERINTENDENT GLUNT, <i>SCI Houtzdale</i> ,	)	United States Magistrate Judge
DEPUTY SUPERINTENDENT HOLLIBAUGH,	)	Cynthia Reed Eddy
<i>SCI Houtzdale</i> , DEPUTY SUPERINTENDENT	)	
CLOSE, <i>SCI Houtzdale</i> , CAPTAIN	)	
BRUMBAUGH, <i>SCI Houtzdale</i> , LT. SHEA,	)	
<i>SCI Houtzdale</i> , DORINA VARNER, <i>Chief</i>	)	
<i>Hearing Examiner</i> , LOUIS FOLINO,	)	
<i>Superintendent, SCI Greene</i> , JOHN WETZEL,	)	
<i>Secretary of D.O.C.</i> , JOHN SAWTELLE,	)	
<i>C.C.P.M. Assigned Grievance Officer</i> , and	)	
SUPERINTENDENT GILMORE, <i>Current</i>	)	
<i>Warden of SCI Greene</i> ,	)	
Defendants.	)	

**MEMORANDUM ORDER**

**KIM R. GIBSON**, United States District Judge.

The present action was filed with this Court on December 30, 2014. The case was referred to United States Magistrate Judge Cynthia Reed Eddy for pretrial proceedings in accordance with Magistrate Judges Act, 28 U.S.C. § 636(b)(1) and Local Rules of Court 72.C and 72.D.

Defendants filed a motion to dismiss for failure to state a claim [ECF No. 23] on April 21, 2015. The Magistrate Judge's Report and Recommendation [ECF No. 39] filed November 13, 2015 recommended that the motion to dismiss filed on behalf of Defendant be denied. Service of the Report and Recommendation was made on all parties. The parties were informed that in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Local Rule of Court 72.D.2 they had until November 27, 2015 to file any objections. As of this date,

no objections have been filed.

Accordingly, after a *de novo* review of the pleadings and documents in this case, together with the Report and Recommendation, the following Order is entered:

AND NOW, this 7<sup>th</sup> day of December, 2015, IT IS HEREBY ORDERED that Defendants' motion to dismiss for failure to state a claim [ECF No. ~~39~~<sup>23</sup>] is DENIED. Defendants shall file an Answer by December 28, 2015

IT IS FURTHER ORDERED that the Report and Recommendation of Magistrate Judge Cynthia Reed Eddy is hereby adopted as the Opinion of the District Court.

By the Court,



The Honorable Kim R. Gibson  
United States District Judge

cc: The Honorable Cynthia Reed Eddy  
United States District Court  
Western District of Pennsylvania

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