

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

ALVIN WASHINGTON, ) Case No. 3:20-cv-180
)
) DISTRICT JUDGE KIM R. GIBSON
Plaintiff, ) MAGISTRATE JUDGE KEITH A. PESTO
)
v. )
)
CORRECTIONS OFFICER BREGMAN, )
et al., )
)
Defendants. )

MEMORANDUM ORDER

This matter was referred to Magistrate Judge Keith A. Pesto for proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636, and Local Civil Rule 72.

Plaintiff Alvin Washington ("Plaintiff") is an inmate currently incarcerated at the State Correctional Institution at Houtzdale, Pennsylvania ("SCI-Houtzdale"). Plaintiff initiated the instant suit by filing a Complaint against six employees or agents of the Department of Corrections at Houtzdale on December 7, 2020. (ECF No. 4). On March 30, 2021, the Magistrate Judge issued a Report and Recommendation recommending that Plaintiff's Complaint be dismissed in part for failure to state a claim, in part with and in part without leave to amend, and in part to be served. (ECF No. 5 at 1). Moreover, the Magistrate Judge informed Plaintiff that he had fourteen days within which to file objections to the Report and Recommendation, amend his Complaint, or both. (Id. at 4-5).

On July 27, 2021, Plaintiff filed a First Amended Complaint with the Court. (ECF No. 8). The Magistrate Judge issued a Second Report and Recommendation on August 31, 2021,

recommending that Plaintiff's Amended Complaint be dismissed in part and served in part. (ECF No. 10 at 1). The Magistrate Judge informed Plaintiff that pursuant to 28 U.S.C. § 636(b)(1), he had fourteen days to file written objections to the Report and Recommendation. (*Id.* at 2). Plaintiff filed objections to the Report and Recommendation on September 20, 2021. (ECF No. 11).

After *de novo* review of the record in this matter, including Plaintiff's Complaint (ECF No. 4), the Report and Recommendation (ECF No. 5), Plaintiff's Amended Complaint (ECF No. 8), the Second Report and Recommendation (ECF No. 10), and Plaintiff's objections to the Second Report and Recommendation (ECF No. 11), the Court finds that Plaintiff's objections are without merit. Accordingly, the following order is entered:

AND NOW, this 2<sup>nd</sup> day of August, 2022, **IT IS HEREBY ORDERED** that Plaintiff's claims against Sergeant McClellan (ECF No. 14) are **DISMISSED WITH PREJUDICE**.

**IT IS FURTHER ORDERED** that Plaintiff's *Whitley v. Albers* claim, *see Whitley v. Albers*, 475 U.S. 312, 320-21 (1986), shall be served on Officer Bregman. The Court **ADOPTS** the Report and Recommendation (ECF No. 10) as the opinion of the Court.

**BY THE COURT:**



**THE HONORABLE KIM R. GIBSON  
UNITED STATES DISTRICT JUDGE**

Notice to by U.S. Mail to:

Alvin Washington  
LX-3049  
SCI Houtzdale  
209 Institution Drive  
P.O. Box 1000  
Houtzdale, PA 16698-1000