

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

<p>TONY WOLFE,</p> <p style="padding-left: 40px;">Plaintiff,</p> <p>v.</p> <p>PAUL ALEXANDER, et al.,</p> <p style="padding-left: 40px;">Defendants.</p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p>No. 3:11-cv-0751</p> <p>Judge Sharp</p> <p>Magistrate Judge Knowles</p>
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ORDER

Pro se Plaintiff Tony Wolfe filed a Complaint on August 5, 2011, against a number of defendants, wherein he sought relief under 42 U.S.C. § 1983 for violations of his constitutional rights purported to have occurred during his confinement at the Tennessee Department of Correction (“TDOC”). *See* (Docket Entry No. 1). Pending before the Court is *Plaintiff’s Motion for Preliminary Injunction and/or Temporary Restraining Order*. (Docket Entry No. 74). In essence, Plaintiff claims Defendants are not allowing him the right to refuse a medical diet and receive a regular food tray.¹ Several Defendants filed responses in opposition to said motion. *See* (Docket Entry Nos. 75 and 78).

Magistrate Judge Knowles entered a Report and Recommendation (“R & R”) (Docket Entry No. 79) in this case on October 1, 2012, concluding,

A number of Defendants have filed a Response to the Motion (Docket No. 78), with the Affidavit of Adrienne Sims (Docket No. 78-1). Ms. Sims’ Affidavit establishes that, since August 20, 2012, Plaintiff has received a regular diet tray for all meals.

Plaintiff has not submitted a Reply to the Response or otherwise contested the factual matters set forth in Ms. Sims’ Affidavit.

¹ Plaintiff is housed at the Deberry Special Needs Facility in Nashville, Tennessee, because of his kidney failure. *See* (Docket Entry No. 1 at 3).

For the foregoing reasons, the instant “Motion for Preliminary Injunction and/or Temporary Restraining Order” (Docket No. 74) should be DENIED AS MOOT.

(*Id.*). Plaintiff filed a timely objection to the R & R on October 12, 2012, along with an Affidavit in support. (Docket Entry Nos. 82 and 83). In the Affidavit, Plaintiff admits that he has been receiving a regular food tray since August 20, 2012. (Docket Entry No. 83 at ¶ 9).

Having considered the matter *de novo* in accordance with Fed. R. Civ. P. 72(b), the Court agrees with the Magistrate Judge’s recommended disposition.


Accordingly, the Court hereby rules as follows:

(1) The Report and Recommendation (Docket Entry No. 79) is hereby ACCEPTED and APPROVED and the objection thereto (Docket Entry No. 83) is hereby OVERRULED; and

(2) *Plaintiff’s Motion for Preliminary Injunction and/or Temporary Restraining Order* (Docket Entry No. 74) is hereby DENIED as moot.

This action is hereby returned to the Magistrate Judge for further pretrial management in accordance with Local Rule 16.01.

It is SO ORDERED.



KEVIN H. SHARP
UNITED STATES DISTRICT JUDGE