

novo review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

In his objections, plaintiff reiterates the facts alleged in his complaint. For the reasons stated in the Magistrate Judge's Report and Recommendation, plaintiff's allegations are insufficient to state a claim of conspiracy or a claim that defendants Snyder and Griffin failed to protect him from an assault.

Defendant Wheat argues that plaintiff alleged insufficient facts to demonstrate that defendant Wheat knew that defendant Torres posed a sufficient risk of harm to plaintiff. In his complaint, plaintiff alleged that defendant Torres had a history of assaulting inmates, that defendant Wheat was aware that defendant Torres used excessive force on multiple occasions, and that defendant Wheat failed to take action to prevent future assaults. These allegations are sufficient to state a claim that defendant Wheat was deliberately indifferent to the safety of other inmates, including plaintiff. *Farmer v. Brennan*, 511 U.S. 825, 832 (1994). Therefore, plaintiff should be allowed to proceed with this claim.

ORDER

Accordingly, the objections (document nos. 31 and 32) are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge (document no. 29) is **ADOPTED**. The motion to dismiss (document no. 11) is **GRANTED**,

in part, and **DENIED**, in part. A partial judgment will be entered in this case in accordance with the Magistrate Judge's recommendations.

So Ordered and Signed

Feb 8, 2018



Ron Clark, United States District Judge