

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

DAVID WAYNE BARRON,

Plaintiff

v.

File No. 1:09-CV-209

ANDREW PALLITO, PRISON HEALTH
SERVICES, INC., DELORES
BURROUGHS-BIRON, BALLARD,
GARRY WEISCHEDEL, RANDY PORTER,
THERESA STONE, KEVIN JENKINS,
JODY BERRIER, MENTAL HEALTH
MANAGEMENT, INC.,

Defendants

ORDER

The Magistrate Judge's Report and Recommendation was filed May 4, 2010. (Paper 44.) After de novo review and absent objection, the Report and Recommendation is AFFIRMED, APPROVED and ADOPTED. See 28 U.S.C. § 636(b)(1).

Defendant Weischedel's motion to dismiss (Paper 38) is GRANTED. Plaintiff shall be allowed 20 days to amend his claims against Dr. Weischedel to comply with the requirements of the Federal Rules of Civil Procedure. The Court notes Plaintiff filed a Second Amended Complaint on May 19, 2010 (Paper 46) in response to an earlier Order of the Court. (Paper 43.)

Defendant Mark Hatcher's motion to dismiss (Paper 33) is DENIED as moot. Defendant Hatcher was dismissed from the case and terminated as a party pursuant to the Court's Order filed April 2, 2010. (Paper 43.)

This matter is returned to Magistrate Judge John M. Conroy for further proceedings.

It is further certified that any appeal taken in forma pauperis from this Order would not be taken in good faith because such an appeal would be frivolous. See 28 U.S.C. § 1915(a)(3).

SO ORDERED.

Dated at Brattleboro, in the District of Vermont, this 28th day of May, 2010.

/s/ J. Garvan Murtha
Honorable J. Garvan Murtha
Senior United States District Judge