

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT CHARLESTON**

MARK DEWAYNE PRICE,

Plaintiff,

v.

CIVIL ACTION NO. 2:08-00259

**CORRECTIONAL MEDICAL
SERVICES, INC.,**

Defendant.

MEMORANDUM OPINION AND ORDER

Pending before the court is defendant's motion for summary judgment (Doc. No. 54) and plaintiff's motion to dismiss the same (Doc. No. 58). By Standing Order entered August 1, 2006, and filed in this case on April 17, 2008, this matter was referred to United States Magistrate Judge Mary E. Stanley. Pursuant to 28 U.S.C. § 636(b)(1)(B), the Standing Order directs Magistrate Judge Stanley to submit proposed findings and recommendation concerning the disposition of this matter. Magistrate Judge Stanley submitted her Proposed Findings and Recommendation ("PF & R") on January 21, 2010, recommending that this court deny the motion for summary judgment and deny plaintiff's motion as moot. (Doc. No. 71.)

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted ten days, plus three mailing days, in which to file any objections to Magistrate Judge Stanley's PF & R.

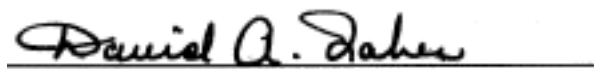
Defendant filed timely objections on February 2, 2010, (Doc. No. 74), to which plaintiff responded shortly thereafter (Doc. No. 76). As such, the court has conducted a de novo review. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989); Thomas v. Arn, 474 U.S. 140 (1985).

For reasons to be explained in a memorandum opinion to be issued forthwith, the court (1) **SUSTAINS** defendant's objections to the magistrate judge's findings (Doc. No. 74); (2) **GRANTS** defendant's motion for summary judgment (Doc. No. 54); and (3) **DENIES** plaintiff's motion to dismiss defendant's motion for summary judgment (Doc. No. 58). The court withholds its judgment order pending issuance of the explanatory memorandum opinion.

The Clerk is directed to forward a copy of this Memorandum Opinion and Order to counsel of record and to plaintiff, pro se.

It is **SO ORDERED** this 31st day of March, 2010.

ENTER:



David A. Faber
Senior United States District Judge