

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

**CHARLESTON DIVISION**

ROGER PERSINGER,

Plaintiff,

v.

CIVIL ACTION NO. 2:09-cv-00825

NAOMI ROBERTS, et al.,

Defendants.

**MEMORANDUM OPINION AND ORDER**

This action was referred to the Honorable Mary E. Stanley, United States Magistrate Judge, for submission to this court of proposed findings of fact and recommendation for disposition, pursuant to 28 U.S.C. § 636(b)(1)(B). The Magistrate Judge has submitted findings of fact and has recommended that the court **GRANT** the Motion to Dismiss filed by Dr. Subhash Gajendragadkar, Naomi Roberts and Wexford Health Sources, Inc. [Docket 13], **GRANT** the Motion to Dismiss filed by Aramark Correctional Services, LLC and Terri Coleman [Docket 15], **GRANT** the Motion to Dismiss Allegations, If Any, Regarding Acts Prior to May 1, 2008, filed by Naomi Roberts [Docket 27], and **GRANT** the Motion to Dismiss Allegations, If Any, Regarding Acts Prior to May 1, 2008, filed by Dr. Subhash Gajendragadkar [Docket 29]. Neither party has filed objections to the Magistrate Judge's findings and recommendations.

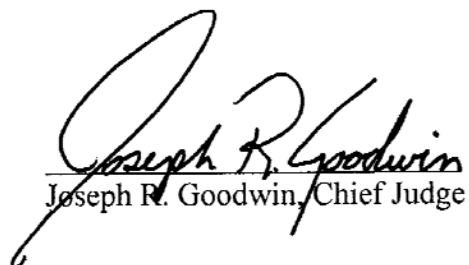
The failure to object to a magistrate judge's report may be deemed a waiver of appeal of the substance of the report and the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. *See Thomas v. Arn*, 474 U.S. 140, 142 (1985);

*Camby v. Davis*, 718 F.2d 198, 200 (4th Cir. 1983). The court has reviewed the Magistrate Judge's findings of fact and recommendations and finds no clear error on the face of the record. Therefore, the court accepts and incorporates herein the findings and recommendation of the Magistrate Judge and orders judgment consistent with the findings and recommendations. Accordingly, the court **GRANTS** the Motion to Dismiss filed by Dr. Subhash Gajendragadkar, Naomi Roberts and Wexford Health Sources, Inc. [Docket 13], **GRANTS** the Motion to Dismiss filed by Aramark Correctional Services, LLC and Terri Coleman [Docket 15], **GRANTS** the Motion to Dismiss Allegations, If Any, Regarding Acts Prior to May 1, 2008, filed by Naomi Roberts [Docket 27], and **GRANTS** the Motion to Dismiss Allegations, If Any, Regarding Acts Prior to May 1, 2008, filed by Dr. Subhash Gajendragadkar [Docket 29].

The plaintiff filed an untimely Motion for Enlargement of Time, And Re-Newed Motion for Appointment of Counsel [Docket 41]. The court **DENIES** this motion as untimely. The court **DISMISSES** the plaintiff's complaint [Docket 1] with prejudice, and **DIRECTS** this action to be removed from the docket.

The court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: August 27, 2010

  
Joseph R. Goodwin, Chief Judge