

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

**CHARLESTON DIVISION**

STEVEN J. TAYLOR,

Plaintiff,

v.

CIVIL ACTION NO. 2:13-cv-33339

JIM RUEBENSTEIN, et al.,

Defendants.

**ORDER**

Pending before the court are two Motions to Dismiss in Part [ECF Nos. 74 & 81] filed by defendants Hudson, Penick, Perry, and McCloud. These motions were referred to United States Magistrate Judge Dwane L. Tinsley for submission to this court of proposed findings of fact and recommendations for disposition pursuant to 28 U.S.C. § 636(b)(1)(B). On October 23, 2015, Judge Tinsley submitted his Findings of Fact and Recommendations [ECF No. 90], which recommended that the court **GRANT** the motions with respect to the plaintiff's claims for monetary damages against these defendants in their official capacities. Further, Judge Tinsley recommended that the court leave this matter referred to him for additional proceedings concerning the plaintiff's remaining claims.

Neither party filed objections to the Findings of Fact and Recommendations. A district court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1)(C). The court is not, however, required to review, under a de novo or any other standard, the factual or legal

conclusions of the magistrate judge as to those portions of the findings or recommendations to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Because the parties have not filed objections, the court adopts and incorporates herein the Findings of Fact and Recommendations [ECF No. 90]. The court **GRANTS** the defendants' respective Motion to Dismiss in Part [ECF Nos. 74 & 81] with respect to the plaintiff's claims for monetary damages against defendants Hudson, Penick, Perry, and McCloud in their official capacities.<sup>1</sup> These claims are **DISMISSED**. This matter is **REFERRED** back to Judge Tinsley for additional proceedings concerning the plaintiff's remaining claims.

The court **DIRECTS** the Clerk to send a certified copy of this Order to United States Magistrate Judge Dwane L. Tinsley, counsel of record, and any unrepresented party.

ENTER: November 25, 2015



JOSEPH R. GOODWIN  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> The court does not make any ruling with respect to the plaintiff's claims for monetary damages against defendants Hudson, Penick, Perry, and McCloud in their *individual* capacities.