

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

**HUNTINGTON DIVISION**

HENRY TIMBERLAKE DUNCAN,

Plaintiff,

v.

CIVIL ACTION NO. 3:16-cv-11097

WESTERN REGIONAL JAIL, and  
ADMINISTRATOR CRAWFORD, and  
ADMINISTRATOR KING, and OFFICER  
MANNON, and OFFICER BLEVINS,

Defendants.

**ORDER**

Pending before the Court is Magistrate Judge Eifert's Proposed Findings and Recommendations ("PF&R"). (ECF No. 38). Magistrate Judge Eifert issued her PF&R on September 22, 2017. By this Court's order on October 17, 2017, Plaintiff was given an extension to file his objections to the PF&R. Plaintiff had until October 30, 2017 to timely file his objections. Although the Court received a different pleading from Plaintiff in the interim, the Court has not received any objections to Magistrate Judge Eifert's PF&R.

Having received no objections, this Court will adopt Magistrate Judge Eifert's PF&R. The Court is not 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 made. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). The Court finds Magistrate Judge Eifert's factual findings and legal conclusions to be supported by the record and the applicable law. Accordingly, the Court **ADOPTS** Magistrate Judge Eifert's PF&R.

Consistent with Magistrate Judge Eifert's recommendations, the Court **GRANTS** Defendants' motion for summary judgment (ECF No. 32); **DENIES** Plaintiff's motion to amend the amended complaint and motion for summary judgment (ECF No. 35, 36); and **DISMISSES** the claims made under the amended complaint (ECF No. 27).

However, this Court, in its October 17 order, permitted Plaintiff to amend his complaint. (ECF No. 41). In doing so, the Court made clear that any claims considered in Magistrate Judge Eifert's PF&R would not be given new life through a second amended complaint. Instead, the Court instructed Plaintiff that the Court would only consider claims that were different from those reviewed by Magistrate Judge Eifert in her already-filed PF&R. Plaintiff filed his Second Amended Complaint on November 1, 2017.<sup>1</sup> Therefore, this case will **REMAIN** on the docket of the Court for proceedings concerning Plaintiff's claims under his Second Amended Complaint. However, as Plaintiff is a pro se, incarcerated litigant, the claims asserted in the Second Amended Complaint are **REFERRED** to Magistrate Judge Eifert for findings of fact and recommendations for disposition.

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

ENTER: November 9, 2017



ROBERT C. CHAMBERS  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> See the Order filed today in this case, addressing that Plaintiff's pleading that is docketed as ECF No. 42, and entitled "Motion to Amend," should be treated as Plaintiff's Second Amended Complaint.