

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

STEPHEN REISE

v.

CA 04-158 ML

A.T. WALL, et al.

MEMORANDUM AND ORDER

This matter is before the Court on plaintiff's objections to three Reports and Recommendations issued by Magistrate Judge Hagopian on June 2, and June 13, 2005. The two Reports and Recommendations issued on June 2 dealt with motions for summary judgment filed by defendant Doctor Motola and defendant Doctor Scott Allen. Magistrate Judge Hagopian recommends that this Court grant the motions on all of plaintiff's claims as to those defendants. Plaintiff has filed a timely objection.

This Court has reviewed the Reports and Recommendations and plaintiff's objections pursuant to F.R. Civ. P. 72(b). Having conducted a de novo review, this Court finds that Magistrate Judge Hagopian's factual determinations are fully supported by the record. The Court further finds that Magistrate Judge Hagopian's legal conclusions are sound. The Court finds no merit in plaintiff's objections.

This Court has also reviewed the Report and Recommendation issued by Magistrate Judge Hagopian on June 13, 2005. In that Report and Recommendation, Magistrate Judge Hagopian recommends that this Court grant the motion for summary judgment filed by defendants Wall, Marocco, and White (collectively "State defendants"). Plaintiff has also filed an objection to this Report and Recommendation,

claiming that he did file a timely objection to the motion, contrary to Magistrate Judge Hagopian's statement in the Report and Recommendation that "plaintiff did not file an opposition. . ." Report and Recommendation 6/13/05 p. 1. Plaintiff apparently attempted to file an objection to the State defendants' motion, however it was procedurally defective. Plaintiff's filing is the subject of a Memorandum and Order issued by Magistrate Judge Hagopian on June 13, 2005. Plaintiff objected to that Memorandum and Order as well. In his objection to the Report and Recommendation, plaintiff also sets forth his legal argument in opposition to the motion for summary judgment, essentially claiming that the provisions of 42 U.S.C. § 1997(e) should not apply to his claims against the State defendants because, he asserts, those claims are "non-grievable." In support of this assertion, plaintiff attaches copies of correspondence dated July 8, 2005. This material was not presented to the Magistrate Judge and this Court will not consider it here. This Court further finds that plaintiff's assertion that his claims made against the State defendants are not grievable is legally incorrect. These are precisely the sort of claims of inmates considered by Congress to be subject to the exhaustion requirements of Section 1997(e).

Therefore, having considered Magistrate Judge Hagopian's recommendations and plaintiff's objections (both procedural and substantive), this Court finds that the State defendants are entitled to judgment as a matter of law. Accordingly, this Court accepts and adopts Magistrate Judge Hagopian's June 13, 2005 Report and Recommendation in its entirety.

Finally, On June 16, 2005, Magistrate Judge Hagopian issued a Report and Recommendation wherein he recommends that plaintiff's motion for preliminary

injunction be denied. Plaintiff has also filed an objection to that Report and Recommendation, although this Court notes that that objection was not timely filed. In view of this Court's rulings on the defendants' motions for summary judgment, plaintiff's motion for preliminary injunction is denied.

Conclusion

Having given due consideration to the Reports and Recommendations and plaintiff's objections thereto, this Court adopts the Reports and Recommendations in their entirety. The motions for summary judgment filed by defendants Allen, Motola, Wall, Marroco, and White are GRANTED. Plaintiff's motion for preliminary injunction is DENIED. The Clerk is directed to enter judgment in favor of all defendants.

SO ORDERED:

Mary M. Lisi
United States District Judge
August , 2005