IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

FILED
FEB 24 2010
U.S. DISTRICT COURT
ELKINS WV 26241

MATTHEW SINE,

Plaintiff,

v.

Civil Action No. 2:08 CV 67
(Maxwell)

EASTERN REGIONAL JAIL,
PRIMECARE, INC.,
Dr. HAHN, Primecare, Inc.,
ADMINISTRATOR RUDLOFF,

Defendants.

ORDER

It will be recalled that the above-styled civil action was instituted on May 21, 2008, when *pro se* Plaintiff Matthew Sine, who was an inmate in the custody of the West Virginia Regional Jail Authority, filed a Complaint outlining events that transpired at the Eastern Regional Jail, which he appears to allege constitute medical malpractice and negligence.

It will further be recalled that the case was referred to United States Magistrate Judge James E. Seibert in accordance with Rule 83.01 of the Local Rules of Prisoner Litigation Procedure and 28 U.S.C. § 1915(e) and 1915A.

On May 11, 2009, Magistrate Judge Seibert issued a Report And Recommendation wherein he recommended that the Plaintiff's Complaint be dismissed with prejudice pursuant to 28 U.S.C. §§ 1915A and 1915(e) for failure to state a claim.

Magistrate Judge Seibert's Report And Recommendation provided the parties with ten (10) days from the date they were served with copies of said Report and Recommendation in which to file objections thereto and advised the parties that a failure to timely file objections would result in the waiver of their right to appeal from a judgment

of this Court based upon said Report And Recommendation.

The Court's review of the docket in the above-styled action has revealed that no objections to Magistrate Judge Seibert's May 11, 2009, Report And Recommendation have been filed and that this matter is now ripe for review. A May 13, 2009, docket entry in the above-styled civil action reveals that service of the Plaintiff's copy of the Report And Recommendation was accepted.

Pursuant to 28 U.S.C. § 636(b)(1)(c), this Court is required to make a *de novo* review of those portions of the Magistrate Judge's findings to which objection is made. 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 recommendation to which no objections are addressed. Thomas v. Arn, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections constitutes a waiver of *de novo* review and the Plaintiff's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); Snyder v. Ridenour, 889 F.2d 1363, 1366 (4th Cir 1989); United States v. Schronce, 727 F.2d 91, 94 (4th Cir. 1984).

Upon consideration of Magistrate Judge Seibert's May 11, 2009, Report and Recommendation, and having received no written objections thereto, it is

ORDERED that the Report And Recommendation entered by United States Magistrate Judge James E. Seibert on May 11, 2009 (Docket No. 26), be, and the same is hereby, **ACCEPTED** in whole and the Court hereby incorporates the findings of fact and conclusions of law made by Magistrate Judge Seibert in said Report And Recommendation. It is further

ORDERED that the Plaintiff's Complaint (Docket No. 1) be, and the same is hereby, **DISMISSED with prejudice** pursuant to 28 U.S.C. §§ 1915A and 1915(e) for failure

to state a claim. It is further

ORDERED that the Clerk of Court shall enter judgment for the Defendants. It is further

ORDERED that, should the Plaintiff desire to appeal the decision of this Court, written notice of appeal must be received by the Clerk of this Court within thirty (30) days from the date of the entry of the Judgment Order, pursuant to Rule 4 of the Federal Rules of Appellate Procedure. The $5.00 filing fee for the notice of appeal and the $450.00 docketing fee should also be submitted with the notice of appeal. In the alternative, at the time the notice of appeal is submitted, the Plaintiff may, in accordance with the provisions of Rule 24(a) of the Federal Rules of Appellate Procedure, seek leave to proceed *in forma pauperis* from the United States Court of Appeals for the Fourth Circuit.

ENTER: February 24th, 2010

United States District Judge