

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

KEITH BARTELLI,

Plaintiff

-vs-

JAMES McGRADY,

Defendant

CIVIL NO. 3:CV-04-0902

(Judge Kosik)

MEMORANDUM AND ORDER

NOW, this 23rd day of June, 2004, IT APPEARING TO THE COURT THAT:

(1) Plaintiff, Keith Bartelli, an inmate confined at the State Correctional Institution at Dallas, filed the instant civil rights action pursuant to 42 U.S.C. §1983 on April 26, 2004;

(2) The matter was assigned to Magistrate Judge Thomas M. Blewitt;

(3) On June 3, 2004, the Magistrate Judge filed a Report and Recommendation in which he recommended that the action against James McGrady, the sole defendant, be dismissed for failure to state a claim against him pursuant to 28 U.S.C. §1915(e)(2)(B)(ii) and as time barred;

(4) Specifically, the Magistrate Judge found that the plaintiff failed to state a cognizable §1983 claim against defendant McGrady in that he failed to establish a constitutional violation in which defendant had a personal involvement. Moreover, the Magistrate Judge found plaintiff's claims were time barred by the statute of limitations;

(5) No objections were filed to the Magistrate Judge's Report and Recommendation;

AND, IT FURTHER APPEARING THAT:

(6) If no objections are filed to a Magistrate Judge's Report and Recommendation, the plaintiff is not statutorily entitled to a *de novo* review of his claims. 28 U.S.C.A. §636(b)(1)(C); *Thomas v. Arn*, 474 U.S. 140, 150-53 (1985). Nonetheless, the

usual practice of the district court is to give "reasoned consideration" to a magistrate judge's report prior to adopting it. Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987).

(7) Having considered the Magistrate Judge's Report, we agree with the recommendation;

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

(1) The Report and Recommendation of Magistrate Judge Thomas M. Blewitt dated June 3, 2004 (Document 7) is **ADOPTED**;

(2) The plaintiff's claims against defendant McGrady are **DISMISSED**; and,

(3) The Clerk of Court is directed to **CLOSE** this case and to forward a copy of this Memorandum and Order to the Magistrate Judge.

s/Edwin M. Kosik
United States District Judge