

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DONALD LOWE,

Plaintiff,

v.

SEETHA VADLAMUDI, ELIZABETH TATE,  
RUTH INGRAM, CORRECTIONAL  
MEDICAL SERVICES, and PATRICIA  
CARUSO,

Defendants.

Case Number 08-10269  
Honorable David M. Lawson  
Magistrate Judge Mona K. Majzoub

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**ORDER ADOPTING REPORT AND RECOMMENDATION, AND GRANTING IN PART AND DENYING IN PART DEFENDANT VADLAMUDI'S MOTION FOR SUMMARY JUDGMENT, DENYING SUMMARY JUDGMENT ON THE PLAINTIFF'S CLAIM AGAINST THE DEFENDANT IN HER INDIVIDUAL CAPACITY, AND GRANTING SUMMARY JUDGMENT ON THE PLAINTIFF'S CLAIM AGAINST THE DEFENDANT IN HER OFFICIAL CAPACITY**

Presently before the Court is the report issued on August 24, 2010 by Magistrate Judge Mona K. Majzoub pursuant to 28 U.S.C. § 636(b). Judge Majzoub recommended granting in part and denying in part defendant Vadlamudi's second motion for summary judgment. The defendant's first motion for summary judgment was denied by the Court on March 16, 2009 in an order adopting the magistrate judge's report and recommendation. At that time, the Court found that genuine issues of material fact remained on the plaintiff's Eighth Amendment claim and that the defendant was not entitled to qualified immunity. Following additional discovery, the defendant filed her second motion for summary judgment on March 1, 2010. Magistrate Judge Majzoub concluded that the defendant had failed to provide any evidence or argument sufficient to change the court's mind on the disposition of the issues in the first motion for summary judgment and that genuine issues of material fact remained. Therefore, Magistrate Judge Majzoub recommended denying summary

judgment on the plaintiff's claim against the defendant in her individual capacity. However, with respect to the official capacity claim, the magistrate judge concluded that the plaintiff's suit was barred by the Eleventh Amendment and recommended granting summary judgment in favor of the defendant on this claim.

Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within fourteen days of service of the report, no objections have been filed. The parties' failure to file objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motion. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the Magistrate Judge.

Accordingly, it is **ORDERED** that the Magistrate Judge's Report and Recommendation [dkt # 121] is **ADOPTED**.

It is further **ORDERED** that the defendant's second motion for summary judgment [dkt #105] is **GRANTED IN PART AND DENIED IN PART**.

It is further **ORDERED** that summary judgment on the plaintiff's claim against defendant Seetha Vadlamudi in her individual capacity is **DENIED**.

It is further **ORDERED** that summary judgment on the plaintiff's claim against defendant Seetha Vadlamudi in her official capacity is **GRANTED**.

It is further **ORDERED** that the plaintiff's complaint against defendant Seetha Vadlamudi in her official capacity is **DISMISSED**.

s/David M. Lawson  
DAVID M. LAWSON  
United States District Judge

Dated: September 14, 2010

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on September 14, 2010.

s/Teresa Scott-Feijoo  
TERESA SCOTT-FEIJOO