

**UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
PENNSYLVANIA**

Freeman Bankston v. Bradley Eckbert, et al.

Civil Action No. 3:25-cv-14 (W.D. Pa. Jan. 2026) · No. 3:25-cv-14 · Decided February 2, 2026

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA FREEMAN BANKSTON,) Plaintiff, VS. Civil Action No. 3:25-cv-14) Judge Stephanie L. Haines BRADLEY ECKBERT, et al.,) Magistrate Judge Patricia L. Dodge Defendants.) MEMORANDUM ORDER Presently before the Court is a Complaint in Civil Action pursuant to 42 U.S.C. § 1983 filed pro se by Freeman Bankston (“Plaintiff”) (ECF No. 7).

Plaintiff asserts that while incarcerated at the State Correctional Institution at Houtzdale (“SCI-Houtzdale”) his civil rights were violated when he ingested food that may have contained a foreign object and caused him to sustain injuries to his mouth, throat, and gastrointestinal tract. He brings this lawsuit against Bradley Eckbert and Anne Saint, who work for the Department of Corrections, and against “Market Square [John Doe]”, the provider of the offending food item.

Plaintiff alleges that Eckbert, Saint, and “Market Square [John Doe]” were negligent in providing him with the food item and were deliberately indifferent to poor and unsafe living conditions in violation of the Eighth Amendment of the Constitution. Defendants Eckbert and Saint (collectively “Moving Defendants”) filed a Motion to Dismiss for failure to state a claim (ECF No. 18) and supporting Brief (ECF No. 19).

Plaintiff was twice ordered to respond to the Motion to Dismiss (ECF Nos. 20, 26), but failed to do so. The Motion to Dismiss was referred to Magistrate Judge Patricia L. Dodge for proceedings in accordance with the Federal Magistrates Act, 28 U.S. C. § 636, and Local Civil Rule 72.D.

On January 5, 2026, Magistrate Judge Dodge filed a Report and Recommendation (ECF No. 33) recommending that the Motion to Dismiss (ECF No. 18) be granted as to the Eighth Amendment claim and the negligence claim but allowed for refiling of the negligence claim in state court should the Plaintiff so choose. ECF No. 33, p. 9.

The Parties were advised that they had until January 20, 2026, to file written objections. See 28 U.S.C. § 636 (b)(1)(B) and (C) and Local Civil Rule 72.D.2. No objections were filed, and the time to do so has expired. Upon review of the record and the Report and Recommendation (ECF No. 33) under the applicable “reasoned consideration” standard, see *EEOC v. City of Long Branch*, 866 F.3d 93, 100 (3d Cir.

2017) (standard of review when no timely and specific objections are filed), and pursuant to Local Civil Rule 72.D.2, the Court will accept in whole the findings and recommendations of Magistrate Judge Dodge in this matter. Judge Dodge correctly determined that Plaintiffs one- time claim of a potential foreign object in his food did not state a valid claim under the Eighth - Amendment and the claim should be dismissed with prejudice.

Under the same precedent, Judge Dodge screened the Complaint under 28 U.S.C. § 1915(e)(2)(B) (ii) as to defendant “Market Square [John Doe]” or “Joe” and came to the same conclusion. As to the negligence claim Judge Dodge recommended that the claim be dismissed under 28 U.S.C. § 1367(c)(3), thereby declining supplemental jurisdiction, but allowing for Plaintiff to refile this state claim in state court should he choose to do so.

This Court agrees. Accordingly, the following order is entered: ORDER AND NOW, this 0) day of January, 2026, IT IS ORDERED that the Motion to Dismiss (ECF No. 18) hereby is GRANTED. Plaintiff's Eighth Amendment Claim is dismissed with prejudice. Plaintiffs negligence claim is dismissed without prejudice to allow for refiling in state court; and, IT IS FURTHER ORDERED that Magistrate Judge Dodge's Report and Recommendation (ECF No. 33) is adopted as the Opinion of the Court; and, IT IS FURTHER ORDERED that the Clerk of Court is to mark this case as closed. os C i j } ING Banal BL Mens _Stephgnie L. Haines United States District Judge cc: Freeman Bankston QB2366 Sci Mercer 801 Butler Pike Mercer, PA 16137