

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

**Larry Kermit Rankin v. Lieutenant Michael Cinko, CO2 Sergeant A.
Boring and CO1 T. Walker**

Rankin · No. 3:21-cv-215 · Decided December 4, 2025

SUMMARY

The United States District Court for the Western District of Pennsylvania adopted a magistrate judge's Report and Recommendation concerning a prisoner's 42 U.S.C. § 1983 claims arising from an allegedly unreasonable visual body cavity search. The court granted in part and denied in part the defendants' motion for summary judgment, dismissing official-capacity, declaratory, and injunctive-relief claims while allowing the Fourth Amendment claims against the defendants in their individual capacities to proceed.

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF PENNSYLVANIA LARRY KERMIT RANKIN,) Plaintiff, VS. Civil Action No. 3:21-cv-215) Judge Stephanie L. Haines LIEUTENANT MICHAEL CINKO, CO2) Magistrate Judge Maureen P. Kelly SERGEANT A. BORING and CO1 T.) WALKER,) Defendants. MEMORANDUM ORDER Presently before the Court is a Complaint in Civil Action pursuant to 42 U.S.C. § 1983 filed pro se by Larry Kermit Rankin ("Plaintiff") (ECF No. 8).

Plaintiff asserts that while he was incarcerated at the State Correctional Institution at Somerset ("SCI-Somerset") his civil rights were violated when he was subjected to a visual body cavity search by Lieutenant Michael Cinko, CO2 Sergeant A. Boring, and CO1 T. Walker ("Defendants") in view of other inmates without reasonable cause.

After the disposition of a Motion to Dismiss (ECF Nos. 15, 27, 33, 60), wherein some defendants were dismissed,¹ and after discovery was conducted, the remaining Defendants filed a Motion for Summary Judgment (ECF No. 111), claiming there is no issue of material fact as to Plaintiffs claims against them.

The fully briefed Motion for Summary Judgment was referred to Magistrate Judge Maureen P. Kelly for proceedings in accordance with the Federal Magistrates Act, 28 U.S. C. § 636, and Local Civil Rule 72.D. On June 18, 2025, Magistrate Judge Kelly filed a Report and Recommendation (ECF No. 1 Defendants John Wetzels, Facility Manager Eric Tice, and R.E. Shaffer were dismissed because there was no plausible cause of action against them.

128) recommending that the Motion for Summary Judgment (ECF No. 111) be granted in part and denied in part. The Parties were advised that they had fourteen days, or seventeen days for unregistered ECF users, 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. 128) 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 Kelly in this matter. Magistrate Judge Kelly correctly determined that Plaintiff’s claims for declaratory and injunctive relief are not appropriate given the posture of the case and, therefore, should be dismissed with prejudice.

ECF No. 128, p. 5-7. Judge Kelly also correctly found that official capacity claims should be dismissed against Defendants because they are protected by Eleventh Amendment sovereign immunity. ECF No. 128, p. 7-8. The Court agrees with Judge Kelly’s determination that the case should proceed as to the Fourth Amendment claims against Defendants as they failed to carry their burden for entry of summary judgment in their favor.

Accordingly, the following order is entered: ORDER AND NOW, this 4 day of December, 2025, IT IS ORDERED that the Motion for Summary Judgment (ECF No. 111) hereby is GRANTED in part and DENIED in part; and, 2 The Court notes that Plaintiff filed a Motion to Appoint Counsel on October 7, 2025 (ECF No. 131). He states that the Court should appoint counsel because he cannot afford to hire counsel and he “does not have the wherewithal to present his claims before a trial court.” ECF No. 131, p.4.

The Court refers this motion to the Magistrate Judge for a determination in light of this Court’s order herein. IT IS FURTHER ORDERED that Magistrate Judge Kelly’s Report and Recommendation (ECF No. 128) is adopted as the Opinion of the Court; and, IT IS FURTHER ORDERED that Plaintiff’s claims as to Defendants in their official capacities are DISMISSED and Plaintiff’s claims for declaratory and injunctive relief are DISMISSED with prejudice.

This case shall proceed as to Plaintiff’s Fourth Amendment claim against Defendants. This case is returned to the jurisdiction of the Magistrate Judge for further proceedings. f fi 4 A 4a A sgl Ah ly “y CHR at CAG he Atephanie L. Haines “ United States District Judge Larry Kermit Rankin KE-4820 SCI Fayette 50 Overlook Drive LaBelle, PA 15450 Pro Se