

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

FILED  
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PER M. B. L.  
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LEONARD PELTIER,  
:  
Plaintiff, :  
:  
v. :  
:  
U.S. BUREAU OF PRISONS, et al., :  
:  
Defendants. :

No. 3:CV-07-0416  
(Judge Kosik)

**MEMORANDUM AND ORDER**

NOW, this 20<sup>th</sup> day of November, 2007, it appearing to the court that:

(1) Plaintiff, Leonard Peltier, an inmate confined at the U.S. Penitentiary at Lewisburg, filed this civil rights action pursuant to 28 U.S.C. § 1331 on March 5, 2007. Plaintiff is represented by counsel;

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

(3) On October 12, 2007, the Magistrate Judge filed a Report and Recommendation in which he recommended that Defendants' Motion to Dismiss be granted, see Moscato v. Federal Bureau of Prisons, 98 F.3d 757, 760 (3d Cir. 1996);

(4) Specifically, the Magistrate Judge found that Plaintiff failed to effect proper service on Defendants. The Magistrate Judge found that Plaintiff did not show good cause for his failure to serve defendants, and that the court should not give Plaintiff a discretionary extension of time;

(5) Furthermore, the Magistrate Judge found that Plaintiff improperly filed this action, and that it should be filed as a petition for writ of habeas corpus under 28 U.S.C. § 2241;

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

AND, IT FURTHER APPEARING THAT:

(7) 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. See 28 U.S.C. § 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. See Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987).

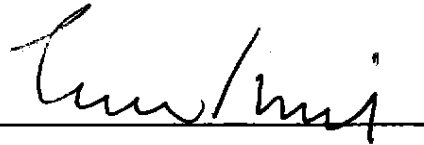
(8) Having considered the Magistrate Judge's Report, we agree with the recommendation;

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

(1) The Report and Recommendation of Magistrate Judge Thomas M. Blewitt, dated October 12, 2007 is **ADOPTED**;

(2) The motion to dismiss is **GRANTED**; 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.



Edwin M. Kosik  
United States District Judge