

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HOT SPRINGS DIVISION

JAY LLOYD HARRIS

PLAINTIFF

v.

Civil No. 6:21-cv-6118

DEPUTY WARDEN RICHARD T. BALL,
DIRECTOR DEXTER PAYNE and DR.
GUY M. HENRY

DEFENDANTS

ORDER

Before the Court is the Report and Recommendation filed October 19, 2021, by the Honorable Barry A. Bryant, United States Magistrate Judge for the Western District of Arkansas. (ECF No. 8). Plaintiff is currently incarcerated in the Arkansas Division of Corrections (“ADC”) and has filed a Complaint alleging that he has been denied reasonable work accommodations in violation of 42 U.S.C § 1983. (ECF No. 1). Specifically, Plaintiff alleges that he suffers from severe migraines that result from prolonged sunlight exposure. Despite this, Plaintiff’s current work assignment requires him to work outside in direct sunlight. Plaintiff states that Defendants failed to consider his migraine issues when they assigned him to outside work. Plaintiff alleges that Defendants’ failure to consider his migraines when assigning his work detail violate certain ADC policies that guarantee reasonable work accommodations. The Complaint does not allege that Plaintiff has suffered any deprivation of his constitutional rights.

The Court referred Plaintiff’s Complaint to Judge Bryant for preservice screening pursuant to the Prison Litigation Reform Act (“PLRA”). 28 U.S.C. § 1915A. Judge Bryant recommends that the Court dismiss Plaintiff’s Complaint without prejudice pursuant to the PLRA because the Complaint fails to state a plausible claim that his constitutional rights were violated as required by

42 U.S.C. § 1983. (ECF No. 8). Indeed, under the PLRA, the Court must dismiss the complaint, or any portion of the complaint, that “is frivolous, malicious, or fails to state a claim upon which relief may be granted[.]” 28 U.S.C. § 1915A(b)(1).

Plaintiff filed timely objections to the Report and Recommendation. (ECF No. 9). Although Plaintiff’s objections now, for the first time, reference the Eighth Amendment to the United States Constitution, the objections do not address Judge Bryant’s findings that the Complaint itself fails to allege that Plaintiff’s constitutional rights have been violated. Accordingly, the Court agrees with the Report and Recommendation in that Plaintiff’s Complaint fails to allege sufficient facts to state a plausible claim that his constitutional rights have been violated under 42 U.S.C. § 1983. Therefore, the Court adopts the Report and Recommendation (ECF No. 8) *in toto*. Plaintiff’s complaint is hereby **DISMISSED WITHOUT PREJUDICE** pursuant to 28 U.S.C. § 1915A(b). The Clerk is directed to place a § 1915(g) strike flag on this case.

IT IS SO ORDERED, this 18th day of November, 2021.

/s/ Susan O. Hickey
Susan O. Hickey
Chief United States District Judge