

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION**

DUSTEN A. MAHON,

Plaintiff,

v.

Case No. 5:17cv181-TKW-EMT

MIKE MOORE, et al.,

Defendants.

ORDER

This case is before the Court on the magistrate judge's Report and Recommendation (R&R) (Doc. 85). Plaintiff filed objections to the R&R (Doc. 86) to which Defendants filed a response (Doc. 87). Based on the Court's de novo review of the issues raised in the objections,¹ the Court agrees with the disposition recommended in the R&R because (1) there are no disputed issues of fact from which a reasonable jury could conclude that Defendants were deliberately indifferent to Plaintiff's medial needs, and (2) Plaintiff failed to provide an adequate justification for his delay in seeking leave to file a fifth amended complaint and, in any event, the new claims that Plaintiff wanted to assert in the proposed fifth amended complaint are inadequate as a matter of law. Likewise, insofar as Plaintiff

¹ The Court sees no need for—and, thus, denies—Plaintiff's request for a hearing on the Defendants' motion for summary judgment. *See* Doc. 86, at 16.

asks for the first time in his objections to be allowed to add claims against Nurses Howell and Walshingham (*see* Doc. 86, at 16), he offers no justification—and the Court sees none—for his failure to seek leave to assert these claims sooner.

Accordingly, it is **ORDERED** that

1. The R&R is adopted and incorporated by reference in this Order.
2. Defendants’ motion for summary judgment (Doc. 71) is **GRANTED**.
3. Plaintiff’s motion for leave to file a fifth amended complaint (Doc. 78) is **DENIED**.
4. The Clerk shall enter judgment in favor of Defendants and close the file.

DONE and ORDERED this 6th day of July, 2020.

T. Kent Wetherell, II

T. KENT WETHERELL, II
UNITED STATES DISTRICT JUDGE