

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MICHAEL MARR,

Plaintiff,

CIVIL CASE NO. 07-10931

v.

CITY OF DETROIT, et al.,

HONORABLE STEPHEN J. MURPHY, III

Defendants.  
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**ORDER OVERRULING THE PLAINTIFF'S OBJECTIONS AND  
ACCEPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

This is a pro se prisoner civil rights suit filed pursuant to 42 U.S.C. § 1983. The plaintiff alleges that the defendants unlawfully delayed the plaintiff's arraignment for more than 48 hours after his arrest and that the defendants unlawfully denied the plaintiff medical care and treatment while in custody. The defendants filed a motion for summary judgment.

On August 27, 2008, Magistrate Judge Pepe issued a Report and Recommendation, recommending that summary judgment be granted in favor of the defendants on both of the plaintiff's claims. The magistrate judge served the Report and Recommendation on the parties and notified the parties that any objections must be filed within ten days of service. The plaintiff filed timely objections. For the reasons stated below, the Court overrules the plaintiff's objections and adopts the magistrate judge's Report and Recommendation.

The Court's standard of review for a magistrate judge's Report and Recommendation depends upon whether a party files objections. If a party objects to portions of the Report and Recommendation, the Court reviews those portions de novo. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3). De novo review in these circumstances requires at least a review of the evidence before the magistrate judge; the Court may not

act solely on the basis of a magistrate judge's Report and Recommendation. See 12 Wright, Miller & Marcus, Federal Practice and Procedure: Civil 2d § 3070.2 (1997); see also *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981). After reviewing the evidence, the Court "may accept, reject, or modify, in whole or in part, the findings or recommendations" of the magistrate judge. 28 U.S.C. § 636(b)(1)(c). In this case, the the plaintiff has filed objections to the magistrate judge's Report and Recommendation. Accordingly, the Court has conducted a de novo review of the record.

After considering the plaintiff's objections and conducting a de novo review of the record, the Court finds that the reasoning of the magistrate judge is sound and that his conclusions are correct. First, on the plaintiff's claim of delayed arraignment, the magistrate judge correctly ruled that there is no genuine issue of material fact and that as a matter of law, the defendants were entitled to summary judgment. There is no question that the plaintiff was suffering from the effects of withdrawal and of his medication, and that the delayed arraignment was due to the plaintiff's condition. Therefore, even when considering all the facts and inferences in the light most favorable to the nonmoving plaintiff, there is insufficient evidence to counter the defendants' explanation for the delay in bringing the plaintiff to an arraignment.

Second, on the plaintiff's claim of deliberate indifference to his medical needs, the magistrate judge correctly ruled that there is no genuine issue of material fact and that as a matter of law, the defendants were entitled to summary judgment. The plaintiff has failed to provide sufficient evidence supporting a claim that the defendants were deliberately indifferent to the plaintiff's medical condition. In addition, the plaintiff has failed to show supervisory liability, and has failed to show some custom or policy of the city or identify a

deficiency in the training program that lead to the alleged medical neglect. In summary, when considering the facts and inferences in the light most favorable to the nonmoving plaintiff, there is insufficient evidence to support a finding by a factfinder that any of the defendants violated the plaintiff's constitutional rights. Finally, the Court finds that the magistrate judge's reasoning and ruling on the issue of qualified immunity is correct.

Accordingly, after having reviewed the magistrate judge's Report and Recommendation, the plaintiff's objections, and the applicable portions of the record,

**IT IS HEREBY ORDERED** that the plaintiff's objections [docket entry #68] to the Report and Recommendation are **OVERRULED**.

**IT IS FURTHER ORDERED** that the Report and Recommendation [docket entry #61] is **ACCEPTED and ADOPTED** as the opinion of this Court.

**IT IS FURTHER ORDERED** that the motion for summary judgment filed by the defendants [docket entry #34] is **GRANTED**.

**IT IS FURTHER ORDERED** that the plaintiff's claims are **DISMISSED WITH PREJUDICE**.

**SO ORDERED.**

s/Stephen J. Murphy, III  
STEPHEN J. MURPHY, III  
United States District Judge

Dated: January 15, 2009

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on January 15, 2009, by electronic and/or ordinary mail.

s/Alissa Greer  
Case Manager

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