

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHRISTOPHER D. HERNANDEZ,

Plaintiff,

v.

Case No. 11-10407

Honorable Patrick J. Duggan

DETROIT-WAYNE COUNTY
COMMUNITY MENTAL HEALTH
AGENCY and NURSE CHEETUM,

Defendants.

**OPINION AND ORDER DENYING PLAINTIFF'S MOTION FOR
RECONSIDERATION**

Presently before the Court is Plaintiff's motion for reconsideration, signed and dated June 12, 2013, and filed June 17, 2013. (ECF No. No. 48.) For the reasons that follow, the motion is denied.

On February 1, 2011, Plaintiff commenced this civil rights action against Defendants Detroit-Wayne County Community Mental Health Agency and "Nurse Cheetum" (collectively "Defendants") alleging that his constitutional rights were violated while he was incarcerated at the Wayne County Jail. On March 28, 2012, Defendants filed a motion for summary judgment which this Court referred to

Magistrate Judge Paul Komives for report and recommendation. On January 24, 2013, Magistrate Judge Komives directed Plaintiff to respond to Defendants' motion by February 15, 2013. (ECF No. 39.) Plaintiff never filed a response and, on March 4, 2013, Magistrate Judge Komives issued a report and recommendation ("R&R") in which he recommended that this Court grant Defendants' motion. (ECF No. 41.) Magistrate Judge Komives also advised the parties that any objections to the R&R had to be filed within fourteen days. (*Id.* at 14-15.) Neither party filed objections to the R&R and on March 26, 2013, this Court entered an opinion and order adopting the magistrate judge's recommendation. (ECF No. 42.) On the same date, the Court entered a judgment dismissing Plaintiff's Complaint with prejudice. (ECF No. 43.)

Two months later, this Court received two motions from Plaintiff: (1) a motion for leave to file an amended complaint, and (2) a motion for more time to respond to Defendants' summary judgment motion. (ECF Nos. 44, 45.) Plaintiff signed and dated the first motion on May 21, 2013, and the second motion on May 28, 2013. In an opinion and order entered June 5, 2013, this Court denied Plaintiff leave to file an amended complaint because nothing asserted in his motion suggested that the summary judgment ruling in Defendants' favor should be set aside. (ECF No. 47.) Therefore, in the same decision, the Court also denied as

moot Plaintiff's motion for more time to respond to the summary judgment motion. (*Id.*)

In his pending motion, Plaintiff indicates that he received the Court's June 5 decision but not the prior decision adopting the magistrate judge's R&R. (ECF No. 48.) Plaintiff states that he has been confined to segregation for months at a time and denied his legal property. (*Id.*)

Defendants, however, filed their motion for summary judgment almost a year before Magistrate Judge Komives issued his R&R recommending that it be granted. Plaintiff never responded to the motion while it was pending. Clearly Plaintiff was aware of the motion and his deadline for responding to it, as he sought leave for an extension of time to file his response (albeit too late). Notably, Plaintiff was alerted early in the proceedings of his responsibility to notify the Court of any address changes and that the "[f]ailure to promptly notify the court of a change in address or other contact information may result in the dismissal of [his] case." (ECF No. 3.) For these reasons, and because Plaintiff has not suggested in any of his pleadings that he can state a claim for which relief may be granted against Defendants, the Court continues to find no reason to upset its prior decisions or judgment.

Accordingly,

IT IS ORDERED, that Plaintiff's motion for reconsideration (ECF No. 48)

is **DENIED**.

Date: July 30, 2013

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

Copies to:

Christopher D. Hernandez, #364043
Bellamy Creek Correctional Facility
1727 West Bluewater Highway
Ionia, MI 48846

Aaron C. Thomas, Esq.