

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHARLES MOORE,

Plaintiff,

Case No. 23-cv-11298

Hon. Matthew F. Leitman

v.

TAVON BROWN, *et al.*,

Defendants.

**ORDER (1) ADOPTING RECOMMENDED DISPOSITION OF REPORT
AND RECOMMENDATION (ECF No. 27) AND (2) GRANTING
DEFENDANTS' MOTION TO DISMISS (ECF No. 20)**

Plaintiff Charles Moore is a state inmate in the custody of the Michigan Department of Corrections (the “MDOC”). On May 31, 2023, Moore filed this *pro se* civil-rights Complaint against several Defendants who work at the G. Robert Cotton Correctional Facility where he is currently incarcerated. (*See* Compl., ECF No. 1.) Moore says, among other things, that the Defendants violated his Fourteenth Amendment right to due process, his Eighth Amendment right to be free from cruel and unusual punishment, and his rights under the Americans with Disabilities Act (the “ADA”) and Rehabilitation Act (the “RA Act”) when the Defendants failed to provide him appropriate medical care and/or denied grievances that he had filed related to his medical care.

On December 26, 2023, MDOC employees Taron Brown, Mario Matthews, Joshua Czarniowski, Sirena Landfair, Crystal Trout, and Brian Stricklin (the “MDOC Defendants”) filed a motion to dismiss and/or for summary judgment. (*See* Mot., ECF No. 20.) The motion was referred to the assigned Magistrate Judge. (*See* Order, ECF No. 11.) On January 2, 2024, the Magistrate Judge ordered Moore to file a response to MDOC Defendants’ motion by no later than January 23, 2024. (*See* Order, ECF No. 21.) Moore asked the Magistrate Judge to extend the time for him to respond (*see* Mot., ECF No. 24), and on February 5, 2024, the Magistrate Judge extended the time for Moore to file his response until March 1, 2024. (*See* Dkt.) Despite that extension, Moore never filed a response in opposition to the MDOC Defendants’ motion.

On May 15, 2024, the Magistrate Judge issued a report and recommendation in which she recommended that the Court (1) *sua sponte* dismiss Moore’s claims under the Fourteenth Amendment, the ADA, and the RA Act with respect to all Defendants and (2) grant the MDOC Defendants’ motion to dismiss Moore’s Eighth Amendment claim (the “R&R”). (*See* R&R, ECF No. 27.) At the conclusion of the R&R, the Magistrate Judge informed the parties that if they wanted to seek review of her recommendation, they needed to file specific objections with the Court within fourteen days. (*See id.*, PageID.185-186.)

Moore has not filed any objections to the R&R. Nor has he contacted the Court to ask for additional time to file objections. The failure to object to an R&R releases the Court from its duty to independently review the matter. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985). *See also Ivey v. Wilson*, 832 F.2d 950, (6th Cir. 1987) (explaining that where party fails to file “timely objections” to report and recommendation, court may accept that recommendation “without expressing any view on the merits of the magistrate’s conclusions”). Likewise, the failure to file objections to an R&R waives any further right to appeal. *See Howard v. Sec’y of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *Smith v. Detroit Fed’n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987).

Accordingly, because Moore has failed to file any objections to the R&R, **IT IS HEREBY ORDERED** that the Magistrate Judge’s recommended disposition described in the R&R is **ADOPTED**.

IT IS FURTHER ORDERED that:

(1) Moore’s claims against all Defendants under the Fourteenth Amendment, the ADA, and the RA Act are **DISMISSED** pursuant to 28 U.S.C. § 1915(e);

(2) the MDOC Defendants’ motion to dismiss and/or for summary judgment (ECF No. 20) is **GRANTED** to the extent that it seeks dismissal of Moore’s Eighth Amendment claim; and

(3) Moore's Eighth Amendment claim against the MDOC Defendants is **DISMISSED.**

The only claims that remain in this action are Moore's claims under the Eighth Amendment against Defendants Dennis Reynolds and Crystal Brown.

IT IS SO ORDERED.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: June 3, 2024

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on June 3, 2024, by electronic means and/or ordinary mail.

s/Holly A. Ryan
Case Manager
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