

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

VESTER MILLS,

Plaintiff,

v.

PATRICIA CARUSO,

Respondent.

Case No. 1:09-cv-249

HON. ROBERT HOLMES BELL

**ORDER APPROVING AND ADOPTING
REPORT AND RECOMMENDATION**

On September 30, 2011, Magistrate Judge Joseph G. Scoville issued a Report and Recommendation (“R&R”) recommending that Plaintiff’s claims against Caruso be dismissed under 28 U.S.C. § 1915A(b), and that Plaintiff’s claims against all other defendants be dismissed without prejudice for failure to achieve service of process. (Dkt. No. 61.)

This Court makes a *de novo* determination of those portions of an R&R to which specific objections are made. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). “[A] general objection to a magistrate’s report, which fails to specify the issues of contention, does not satisfy the requirement that an objection be filed. The objections must be clear enough to enable the district court to discern those issues that are dispositive and contentious.” *Miller v. Currie*, 50 F.3d 373, 380 (6th Cir. 1995). The Court may accept, reject, or modify any or all of the Magistrate Judge’s findings or recommendations. *Id.*

Plaintiff objects to the Magistrate Judge's recommendation of dismissal as to Defendant Caruso under 28 U.S.C. § 1915A(b). Plaintiff's only basis for objection is that Defendant Caruso should be held accountable for allowing the actions of subordinates. However, the Court agrees with the Magistrate Judge's determination that Plaintiff has not alleged facts sufficient to state a claim upon which relief may be granted. As noted in the R&R, supervisory officers are not liable under 42 U.S.C. § 1983 under a theory of *respondeat superior*.

Plaintiff makes no specific objection to the Magistrate Judge's recommendation that his claims against the remaining defendants should be dismissed without prejudice for failure to achieve service of process. Plaintiff merely states that he made errors, and argues that dismissal is a harsh result. However, the record shows that Plaintiff was given an extension of time to achieve service of process, and that he was aware of the relevant rules. Additionally, the harshness of dismissal is mitigated by the Magistrate Judge's recommendation that the claims be dismissed without prejudice. The Court agrees that this is the correct result. Accordingly,

IT IS HEREBY ORDERED that the September 30, 2011, R&R (Dkt. No. 61) is **APPROVED** and **ADOPTED** as the opinion of the Court.

IT IS FURTHER ORDERED that Plaintiff's claims against Defendant Caruso are **DISMISSED** under 28 U.S.C. 1915A(b) for failure to state a claim upon which relief may be granted.

IT IS FURTHER ORDERED that Plaintiff's claims against the remaining defendants are **DISMISSED WITHOUT PREJUDICE** for failure to achieve service of process.

Dated: March 9, 2012

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE