

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

MORRIS WEATHERSPOON,

Plaintiff,

v.

C. WILLIAMS et al.,

Defendants.

File No. 2:14-cv-108

HON. ROBERT HOLMES BELL

MEMORANDUM OPINION AND ORDER
ADOPTING REPORT AND RECOMMENDATION

On December 9, 2015, Magistrate Judge Timothy P. Greeley issued a Report and Recommendation (“R&R”) recommending that the Court grant Defendants’ motion to sever and dismiss Defendants Williams, Schwesinger, Dicken, Johnson, Mastaw, Beaudion, Raffaele, Marlette, Olson, Simons, Franckowiak, Rogers, and unknown Defendants without prejudice. This matter is before the Court on Plaintiff’s objections to the R&R. (ECF No. 49.)

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.*

First, Plaintiff objects that severance is improper because all of the allegations of his complaint occurred at the same prison facility. However, a common geographic location is not sufficient to satisfy the requirement in Rule 20(a) that claims against multiple parties arise from the “same transaction, occurrence, or series of transactions or occurrences.” Fed. R. Civ. P. 20(a)(2)(A).

Plaintiff further contends that Defendants’ actions are all part of a conspiracy against him. However, the complaint is devoid of any plausible allegations of conspiracy involving the remaining Defendants (Thibault, McDowell and Eslin) and the Defendants who are to be dismissed. A conspiracy claim must be pleaded with specificity. *Fieger v. Cox*, 524 F.3d 770, 776 (6th Cir. 2008); *Spadafore v. Gardner*, 330 F.3d 849, 854 (6th Cir. 2003). Plaintiff has not alleged any facts that would support a “plausible suggestion of conspiracy[.]” *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 566 (2007). Plaintiff’s vague and conclusory assertion that all Defendants in this action agreed to violate his constitutional rights is not sufficient to state a plausible conspiracy claim.

Next, Plaintiff contends that he should be allowed an opportunity to amend his complaint and that the Court should grant his motion for discovery in order for him to make additional allegations of conspiracy. The Court discerns no reason for doing so. Severance of the parties is appropriate if the joinder requirements of Rule 20 are not satisfied by the

allegations of the complaint. The Court has reviewed the complaint and agrees that it does not satisfy the rule. Plaintiff does not indicate what amendments he would make to bring it into conformance. Moreover, Plaintiff must state a plausible claim before he can proceed to discovery. Having failed to allege any plausible basis for a conspiracy between Defendants Thibault, McDowell, Eslin and the other parties, he has not alleged enough “to raise a reasonable expectation that discovery will reveal evidence of illegal agreement.” *Twombly*, 550 U.S. at 556. Thus, the Court discerns no error in the recommendation that the Court sever the action prior to discovery.

Accordingly,

IT IS HEREBY ORDERED that Plaintiff’s objections (ECF No. 49) are **OVERRULED**.

IT IS FURTHER ORDERED that the December 9, 2015, R&R (ECF No. 43) is **APPROVED** and **ADOPTED** as the opinion of this Court.

IT IS FURTHER ORDERED that Defendants’ motion to sever (ECF No. 33) is **GRANTED**.

IT IS FURTHER ORDERED that Defendants Williams, Schwesinger, Dicken, Johnson, Mastaw, Beaudion, Raffaele, Marlette, Olson, Simons, Franckowiak, Rogers, and unknown parties are **DISMISSED WITHOUT PREJUDICE**.

Dated: February 4, 2016

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