

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

Ernest Carter,

Civil No. 17-1061 (DWF/HB)

Plaintiff,

v.

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

Jan Rysh, MN DOC Oak Park Heights  
Medical; Darin Haugland, MN DOC Oak  
Park Heights Medical; Dr. Craane, MN  
DOC Oak Park Heights Medical; K.  
Rueckek, MN DOC St. Cloud; and  
Timothy Hiesterman, MN DOC St. Cloud,

Defendants.

The above matter comes before the Court upon the Report and Recommendation of United States Magistrate Judge Hildy Bowbeer dated July 13, 2018. (Doc. No. 67.) In the Report and Recommendation, the Magistrate Judge recommended that the Minnesota Department of Corrections and Defendant Katie Rueckert's<sup>1</sup> Motion to Dismiss be granted and that the official-capacity § 1983 claim for monetary damages against Defendant Rueckert be dismissed with prejudice. The Magistrate Judge also explained that it would grant Plaintiff an opportunity to file a second amended complaint to sue Rueckert and the other Defendants in their personal capacities as well as their official capacities, and to add a request for equitable relief. (Doc. No. 67 at 7.) Plaintiff has separately sought an extension of time to file an amended complaint, but has not filed

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<sup>1</sup> The Magistrate Judge indicated the defendant named "K. Rueckek" in the Complaint is actually Katie Rueckert.

objections to the Report and Recommendation in the time period permitted. The factual background for the above-entitled matter is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference. Based upon the Report and Recommendation of the Magistrate Judge and upon all of the files, records, and proceedings herein, the Court now makes and enters the following:

**ORDER**

1. Magistrate Judge Hildy Bowbeer's July 13, 2018 Report and Recommendation (Doc. No. [67]) is **ADOPTED**.
2. The Minnesota Department of Corrections and Defendant Katie Rueckert's Motion to Dismiss (Doc. No. [33]) is **GRANTED**, and the official-capacity § 1983 claim for monetary damages against Defendant Katie Rueckert is **DISMISSED WITH PREJUDICE**.

Dated: August 9, 2018

s/Donovan W. Frank  
DONOVAN W. FRANK  
United States District Judge