

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Daniel J. Kludt,

Civ. No. 17-3842 (PAM/KMM)

Plaintiff,

v.

ORDER

MCF-Rush City; Ofc. Kunze, Indiv. & Offic. capacity; A-W, Indiv. & Offic. capacity; Rush City Municipal Water Source; MCF-Rush City Med. Services; Jeff Titus, Indiv. & Offic. capacity; Tom Roy, Indiv. & Offic. capacity; Rush City, MN; Edward J. Cleary; Trina Hendrickson, Indiv. & Offic.; and Becky Gross, Indiv. & Offic.;

Defendants.

This matter is before the Court on the Report and Recommendation (“R&R”) of United States Magistrate Judge Katherine M. Menendez dated May 30, 2018. The R&R recommends granting Defendants’ Motion to Dismiss, dismissing Plaintiff’s federal claims with prejudice and his state claims without prejudice so that he may pursue those claims in state court.

Plaintiff Daniel J. Kludt is currently incarcerated at the Minnesota Correctional Facility in Rush City, Minnesota. He filed this action in August 2017, raising a host of claims against prison officials. Defendants brought the instant Motion to Dismiss the Third Amended Complaint on February 7, 2018. Magistrate Judge Menendez ordered Kludt to respond to the Motion by March 5, 2018. He did not do so, however.

Kludt now objects to the R&R, stating merely that he “object[s] to the Third Amended Complaint dismissal” and that his “Federal Claim under 42 U.S.C. § 1983 shall not be dismissed as [he] need[s] time to review.” (Docket No. 48.) He seeks an additional 60-day extension of the “motion pleadings deadline” because he was “sick in bed 2 months with a grave illness.” (Docket No. 49 at 1.)

The Court must review de novo any portion of an R&R to which specific objections are made. 28 U.S.C. § 636(b)(1); D. Minn. L.R. 72.2(b). After conducting the required review, the Court **ADOPTS** the R&R. (Docket No. 47.)

This matter has already been pending for nearly a year, and thus any further extensions are not warranted. While the Court is sympathetic to Kludt’s health issues, the fact remains that he has not successfully stated any claim after multiple attempts to replead. The R&R thoroughly analyzed Kludt’s claims, noting that Kludt had repeatedly failed to comply with applicable pleading standards and that, in any event, his attempt to impose supervisor liability on Defendants for violations of § 1983 is contrary to well-established law. An extension of time will not cure the substantial and serious defects in Kludt’s pleadings.

Finally, Kludt asks the Court to provide him with the “complete set of documents from the date filed” because his documents have “suspiciously gone missing.” (Docket No. 49 at 1-2.). Should Kludt require copies of documents from his case, he should contact the Clerk of Court, 316 N. Robert Street, St. Paul, MN 55101. There is likely to be a charge for any copying request.

Accordingly, **IT IS HEREBY ORDERED** that:

1. The Motion to Dismiss (Docket No. 38) is **GRANTED**;
2. Plaintiff's claims under 42 U.S.C. § 1983 are **DISMISSED with prejudice** for failure to state a claim; and
3. Plaintiff's state law claims are **DISMISSED without prejudice** pursuant to 28 U.S.C. § 1367(c)(3).

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: June 20, 2018

s/ Paul A. Magnuson
Paul A. Magnuson
United States District Court Judge