

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

KHALID MOHAMMAD,

Plaintiff,

vs.

Civ. No. 16-473 MV/KK

THE METROPOLITAN COURT, *et al.*,

Defendants.

**ORDER OVERRULING PLAINTIFF'S OBJECTIONS
AND ADOPTING MAGISTRATE JUDGE'S
PROPOSED FINDINGS AND RECOMMENDED DISPOSITION**

THIS MATTER is before the Court on (1) the Motion to Dismiss filed by Defendants the Bernalillo County Metropolitan Court and the University of New Mexico, filed May 31, 2016 (Doc. 8); (2) the Motion to Dismiss filed by Metropolitan Detention Center, filed May 31, 2016 (Doc. 11); and (3) Plaintiff's Motion for Leave to Amend the Complaint, filed January 30, 2017 (Doc. 23). In her Proposed Findings and Recommended Disposition ("PFRD"), filed May 31, 2017, United States Magistrate Judge Kirtan Khalsa proposed to find that Defendants' Motions to Dismiss be GRANTED, that Plaintiff's Complaint be DISMISSED WITHOUT PREJUDICE, that Plaintiff's Motion to Amend be DENIED, and that Plaintiff be allowed twenty-one (21) days to file a motion to amend his complaint to state a claim on which relief can be granted. (Doc. 27.) On June 14, 2017, Plaintiff timely filed his Objection to Findings and Recommendations ("Objections"). (Doc. 28.)

District courts may refer dispositive motions to a magistrate judge for a recommended disposition pursuant to 28 U.S.C. § 636 and Federal Rule of Civil Procedure 72. 28 U.S.C. § 636(b)(1)(B); Fed. R. Civ. P. 72(b)(1). "Within 14 days after being served with a copy of the

[magistrate judge's] recommended disposition, a party may serve and file specific written objections to the proposed findings and recommendations." Fed. R. Civ. P. 72(b)(2); 28 U.S.C. § 636(b)(1). When resolving objections to a magistrate judge's proposal, "[t]he district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions." Fed. R. Civ. P. 72(b)(3); 28 U.S.C. § 636(b)(1).

"[A] party's objections to the magistrate judge's report and recommendation must be both timely and specific to preserve an issue for de novo review by the district court or for appellate review." *United States v. One Parcel of Real Prop.*, 73 F.3d 1057, 1060 (10th Cir. 1996). Further, "[i]ssues raised for the first time in objections to the magistrate judge's recommendation are deemed waived." *Marshall v. Chater*, 75 F.3d 1421, 1426 (10th Cir. 1996); *see also United States v. Garfinkle*, 261 F.3d 1030, 1031 (10th Cir. 2001) ("In this circuit, theories raised for the first time in objections to the magistrate judge's report are deemed waived.").


The Court has considered Defendants' Motions to Dismiss, Plaintiff's Responses, Plaintiff's Motion to Amend, the Magistrate Judge's PFRD, and Plaintiff's Objections in light of the foregoing standards, and has conducted a *de novo* review. Based on this review, the Court finds that Plaintiff's Objections to the Magistrate Judge's PFRD are unfounded. In his Objections, Plaintiff asserts, without more, that he is actually innocent and requires the discovery stage of litigation to establish the factual basis of his causes of action against the Defendants. (Doc. 28.)

In short, following its *de novo* review, the Court finds no fault with the Magistrate Judge's PFRD, and discerns nothing that might usefully be added to it. As such, rather than repeat what the Magistrate Judge has already written, the Court hereby ADOPTS the Magistrate Judge's PFRD and OVERRULES Plaintiff's Objections.

IT IS THEREFORE ORDERED that

1. The Motion to Dismiss (Doc. 8) filed by Defendants the Bernalillo County Metropolitan Court and the University of New Mexico is GRANTED;
2. Defendant Metropolitan Detention Center's Motion to Dismiss and Supporting Memorandum (Doc. 11) is GRANTED;
3. Plaintiff's Complaint (Doc. 1-3) is DISMISSED WITHOUT PREJUDICE;
4. Plaintiff's Motion for Leave to Amend the Complaint (Doc. 23) is DENIED; and,
5. Plaintiff is granted twenty-one (21) days from entry of the Court's order to file a motion to amend his complaint to state a claim on which relief can be granted.

IT IS SO ORDERED.



MARTHA VAZQUEZ
United States District Judge