

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

MELVIN BROWN,

Plaintiff,

-against-

9:15-CV-1515 (LEK/CFH)

S. DUBOIS, *et al.*,

Defendants.

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**DECISION AND ORDER**

**I. INTRODUCTION**

This matter comes before the Court following a Report-Recommendation filed on June 16, 2017, by the Honorable Christian F. Hummel, U.S. Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3. Dkt. No. 56 (“Report-Recommendation”). Pro se plaintiff Melvin Brown timely filed Objections. Dkt. No. 57 (“Objections”).

**II. LEGAL STANDARD**

Within fourteen days after a party has been served with a copy of a magistrate judge’s report-recommendation, the party “may serve and file specific, written objections to the proposed findings and recommendations.” Fed. R. Civ. P. 72(b); L.R. 72.1(c). If no objections are made, or if an objection is general, conclusory, perfunctory, or a mere reiteration of an argument made to the magistrate judge, a district court need review that aspect of a report-recommendation only for clear error. *Barnes v. Prack*, No. 11-CV-857, 2013 WL 1121353, at \*1 (N.D.N.Y. Mar. 18, 2013); *Farid v. Bouey*, 554 F. Supp. 2d 301, 306–07, 306 n.2 (N.D.N.Y. 2008) (abrogated on other grounds by *Widomski v. State Univ. of N.Y. at Orange*, 748 F.3d 471 (2d Cir. 2014)); see also *Machicote v. Ercole*, No. 06-CV-13320, 2011 WL 3809920, at \*2 (S.D.N.Y. Aug. 25, 2011)

(“[E]ven a *pro se* party’s objections to a Report and Recommendation must be specific and clearly aimed at particular findings in the magistrate’s proposal, such that no party be allowed a second bite at the apple by simply relitigating a prior argument.”). “A [district] judge . . . may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b). Otherwise, a court “shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*

### **III. DISCUSSION**

Although Brown submitted a filing in response to the Report-Recommendation, he did not include any specific objections to Judge Hummel’s findings or recommendations. The filing merely restates Brown’s Eighth Amendment claim and provides case law in support of such claim. *Objs.* at 2–5. Accordingly, the Court has reviewed the Report-Recommendation for clear error and has found none.

### **IV. CONCLUSION**

Accordingly, it is hereby:

**ORDERED**, that the Report-Recommendation (Dkt. No. 56) is **APPROVED and ADOPTED in its entirety**; and it is further

**ORDERED**, that Defendants’ Motion for Summary Judgment (Dkt. No. 37), insofar as it requests dismissal of Plaintiff’s claims for monetary damages against Defendants in their official capacities, is **GRANTED** and that such claims are dismissed; and it is further

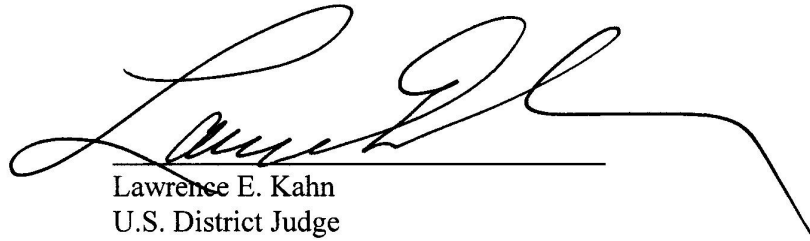
**ORDERED**, that Defendants’ Motion for Summary Judgment (Dkt. No. 37) is **DENIED in all other respects**; and it is further

**ORDERED**, that Plaintiff's Cross-Motion for Summary Judgment (Dkt. No. 40) is **DENIED**; and it is further

**ORDERED**, that the Clerk of the Court serve a copy of this Decision and Order on all parties in accordance with the Local Rules.

**IT IS SO ORDERED.**

DATED: July 12, 2017  
Albany, New York



Lawrence E. Kahn  
U.S. District Judge