

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DATE FILED: January 5, 2017

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SAMUEL FORD,

Plaintiff,

- against -

C.O. RODRIGUEZ et al.,

Defendants.
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15 Civ. 4909 (PAC) (GWG)

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

HONORABLE PAUL A. CROTTY, United States District Judge:

Pro se Plaintiff Samuel Ford (“Plaintiff”) brings this 42 U.S.C. § 1983 action against Correction Officer Rodriguez and New York City Commissioner of Corrections Joseph Ponte (collectively, “Defendants”), complaining that he bit into a rock in his food, broke his tooth, and was denied proper and prompt dental treatment, amounting to deliberate indifference to his needs.¹ Dkt. 2.

On June 29, 2015, the Court referred the matter to Magistrate Judge Gabriel W. Gorenstein. Dkt. 6. Plaintiff amended his complaint on October 14, 2015, and then again on March 17, 2016. Dkts. 15, 33. Defendants moved to dismiss the complaint on June 6, 2016 for failure to state a claim under Fed. R. Civ. P. 12(b)(6). Dkt. 36. On November 16, 2016, Magistrate Judge Gorenstein issued a Report and Recommendation (“R&R”) concluding that Defendants’ motion should be granted. Dkt. 44 at 10. In accordance with 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72(b)(2), the R&R directed the parties to file any specific written objections within fourteen days; otherwise, the parties would “not be permitted to raise any objections to the [R&R] on appeal.” *Id.*; see *Thomas v. Arn*, 474 U.S. 140, 155 (1985). No objections to the R&R have been filed.

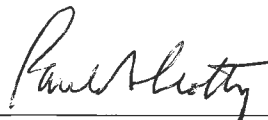
¹ Plaintiff has since clarified that he does not seek to hold Commissioner Ponte liable. See Dkt. 40 at 6.

The Court 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)(1). “To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the fact of the record.” *Wilds v. United Parcel Serv., Inc.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003). The Court finds no clear error in the R&R and adopts it in full.

Accordingly, Defendants’ motion to dismiss is GRANTED. Pursuant to 28 U.S.C 1915(a), any appeal from this order would not be taken in good faith. *See Coppedge v. United States*, 369 U.S. 438 (1962). The Clerk is directed to enter judgment and to close this case.

Dated: New York, New York
January 5, 2017

SO ORDERED



PAUL A. CROTTY
United States District Judge

Copies mailed by chambers to:

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