

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



JEREMY RIVERA,

Plaintiff,

-v-

JOHN DOE (PM) INTAKE AREA SERGEANT, et al.,

Defendants.

16 Civ. 8809 (PAE) (BCM)

OPINION & ORDER

PAUL A. ENGELMAYER, District Judge:

Pro se plaintiff Jeremy Rivera bring this action under 42 U.S.C. § 1983 alleging that he was provided with an inadequate mattress while detained by the New York City Department of Corrections (DOC) at Rikers Island and was deprived of adequate medical care for his resulting back pain. Before the Court is the February 26, 2018 Report and Recommendation of the Hon. Barbara C. Moses, United States Magistrate Judge, (“Report”) recommending that the Court dismiss all claims brought by Rivera. Dkt. 36. For the following reasons, the Court adopts this recommendation.

I. Background

The Court incorporates by reference the summary of the facts and procedural provided in the Report. *See* Report at 1–5. On November 10, 2016, Rivera filed the instant complaint with co-plaintiff Walter Cunningham, Jr., who was terminated from this litigation on January 24, 2018. *See* Dkts. 2, 35. On April 14, 2017, Rivera filed an Amended Complaint. Dkt. 15. On July 17, 2017, the City moved to dismiss the Amended Complaint. Dkt. 20. On October 16, 2017, Rivera filed a letter objecting to the dismissal of his complaint. Dkt. 31. On October 19, 2017, the City filed a letter reply in support of its motion to dismiss. Dkt. 32.

On February 26, 2018, following this Court's adoption of Judge Moses's recommendation that co-plaintiff Cunningham be dismissed, Judge Moses filed her Report recommending that the Court dismiss all claims brought by Rivera. Rivera has, to date, filed no objections.

II. Discussion

In reviewing a Report and Recommendation, a district 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)(C). When a party makes specific objections to a magistrate's findings, the district court must make a *de novo* determination as to those findings. *Id.* § 636(b)(1). However, if a party "makes only conclusory or general objections, or simply reiterates the original arguments, the Court will review the Report strictly for clear error." *Pinkney v. Progressive Home Health Servs.*, No. 06 Civ. 5023 (LTS) (JCF), 2008 WL 2811816, at *1 (S.D.N.Y. July 21, 2008), *aff'd*, 367 F. App'x 210 (2d Cir. 2010) (summary order). And, while *pro se* parties are, as always, treated leniently in making objections, their objections to a Report "must be specific and clearly aimed at particular findings." *Id.*

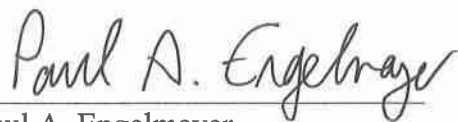
As neither party has submitted objections to the Report, review for clear error is appropriate. Careful review of Judge Moses's extremely thorough, thoughtful, and well-reasoned Report reveals no facial error in its conclusions; the Report is therefore adopted in its entirety.

CONCLUSION

For the foregoing reasons, the Court dismisses, without prejudice, all claims brought by Rivera pursuant to Federal Rule of Civil Procedure 41(b).

The Court directs the Clerk to mail a copy of this decision to plaintiff at the address on file.

SO ORDERED.

A handwritten signature in black ink, reading "Paul A. Engelmayer". The signature is written in a cursive style with a horizontal line underneath the name.

Paul A. Engelmayer
United States District Judge

Dated: March 20, 2018
New York, New York