

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

RAHEL HAKIM et al.,

Plaintiffs,

v.

DECISION AND ORDER
13-CV-162S

BUFFALO FEDERAL DETENTION FACILITY
et al.,

Defendants.

Presently before this Court is Defendants' motion seeking dismissal pursuant to Federal Rules of Civil Procedure 12(b)(1), 12(b)(6) and/or summary judgment pursuant to Rule 56 of the remaining Bivens Fifth Amendment religious-practices claim asserted against Defendant Tryon in his individual capacity,¹ as well as a claim for prospective injunctive relief against the Buffalo Federal Detention Facility ("BFDF"). Notably, following this Court's prior orders, the only Plaintiff remaining in this action is Zobi Monther. Despite being afforded additional time to respond after the Court confirmed Plaintiff's current location, as well as warned that failure to do so might result in dismissal of his case, Plaintiff has not filed any opposition to Defendants' motion.

Moreover, this Court agrees with Defendants that Plaintiff's Amended Complaint (Docket No. 16) fails to sufficiently allege that Defendant Tryon was personally involved in any of the asserted constitutional violations, a necessary requirement to state an actionable Bivens claim. See Thomas v. Ashcroft, 470 F.3d 491, 496-97 (2d Cir. 2006) (a supervisor may not be held vicariously liable for a subordinate's conduct in a Bivens

¹ Although the Government raises an official capacity argument, this Court's prior order permitted this religious-practices claim to move forward against Tryon in his individual capacity only. (Docket No. 21 at 14.)

claim); see also Ascroft v. Iqbal, 556 U.S. 662, 680-81, 129 S. Ct. 1937, 173 L. Ed. 2d 868 (2009) (supervisor's "mere knowledge" of and acquiescence in conduct constituting a constitutional discrimination claim insufficient to show supervisor's liability). Further, any request for injunctive relief against BFDf was mooted by Plaintiff's transfer to a different detention facility following the filing of his Amended Complaint. See Prins v. Coughlin, 76 F.3d 504, 506 (2d Cir. 1996).

IT HEREBY IS ORDERED that Defendant's motion to dismiss (Docket No. 24) is GRANTED on the ground that Plaintiff failed to state a claim in his Amended Complaint;

FURTHER, that the Amended Complaint (Docket No. 16) is dismissed;

FURTHER, that the Clerk of the Court shall close this case.

SO ORDERED.

Dated: October 2, 2015
Buffalo, New York

/s/William M. Skretny
WILLIAM M. SKRETNY
United States District Judge