

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

2021 OCT -7 AM 11:46

JOSHUA BEDARD,)
)
Plaintiff,)
)
v.)
)
CENTURION OF VERMONT, LLC,)
)
Defendants.)
)

CLERK
BY  _____
DEPUTY CLERK

Case No. 5:20-cv-161

**ORDER ADOPTING
MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION,
GRANTING DEFENDANTS’ MOTION TO DISMISS, AND ALLOWING
PLAINTIFF AN EXTENSION OF TIME TO FILE AN AMENDED COMPLAINT**
(Docs. 9, 13, 15, 16)

The Report and Recommendation of the United States Magistrate Judge was filed on August 27, 2021. (Doc. 15.) After review of the file and the Magistrate Judge’s Report and Recommendation, no objections having been filed by any party, this court ADOPTS the recommendations in full for the reasons stated in the Report. Accordingly, Defendants’ motion to dismiss (Doc. 13) is GRANTED and Plaintiff’s Motion to continue (Doc. 9) is DENIED AS MOOT. Further, Plaintiff’s September 15, 2021 motion for an extension of time to file an Amended Complaint (Doc. 16) is GRANTED.

On October 20, 2020, Plaintiff Joshua Bedard’s Complaint was filed following the court’s Order granting him leave to proceed *in forma pauperis* (“IFP”). (Docs. 2, 4.) Bedard, a Vermont inmate representing himself, brings this action under 42 U.S.C. § 1983 against Defendant Centurion of Vermont, LLC alleging that Defendant violated his constitutional rights by failing to provide him adequate medical treatment while he was a pretrial detainee. Specifically, he asserts that Defendant stopped his suboxone regimen to retaliate against him for filing a grievance against Defendant’s staff members and pursuing an action in state court. He

further alleges this conduct constituted medical malpractice under Vermont state law. He seeks compensatory and punitive damages.

In January 2021, Plaintiff moved for a continuance seeking an extension of six months of “all court proceedings and deadlines on all Motions.” (Doc. 9 at 2.) At that time, there were no pending motions. On February 22, 2021, Defendant moved to dismiss the Complaint for failure to state a claim. (Doc. 13.) Plaintiff did not file opposition to the motion. On August 27, 2021, United States Magistrate Judge Kevin Doyle issued a Report and Recommendation (“R & R”) recommending that the motion to dismiss be granted, the motion for continuance be denied as moot, and Plaintiff be granted thirty days to amend his Complaint. (Doc. 15.) On September 10, 2021, Plaintiff moved for a ninety-day extension to file an Amended Complaint. (Doc. 16.)

A district judge must make a *de novo* determination of those portions of a magistrate judge’s report and recommendation to which an objection is made. Fed. R. Civ. P. 72(b)(3); 28 U.S.C. § 636(b)(1); *Cullen v. United States*, 194 F.3d 401, 405 (2d Cir. 1999). The 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)(1); *accord Cullen*, 194 F.3d at 405. Here, no objections to the R & R have been filed.

Plaintiff appears before the court as a self-represented litigant. Plaintiff, thus, is “entitled to a liberal construction of [his] pleadings, which should be read to raise the strongest arguments that they suggest.” *Diaz v. United States*, 633 F. App’x 551, 555 (2d Cir. 2015) (internal quotation marks omitted).

The court accepts and adopts the magistrate judge’s recommendations. The August 27, 2021 R & R concludes that Plaintiff’s Complaint fails to state a claim under § 1983 because he has not identified the individuals responsible for the alleged constitutional deprivations or that Defendant’s employees’ allegedly unlawful conduct resulted from a policy or custom of

Defendant. Further, he concludes Plaintiff's motion for continuance should be denied as moot in light of his recommendation to grant Plaintiff leave to file an Amended Complaint. Finally, he recommends that the court refrain from exercising supplemental jurisdiction over any state-law claims, such as the medical malpractice claim, if the court dismisses Plaintiff's federal claims as recommended.

CONCLUSION

After careful review of the file and the Report and Recommendation, this court ADOPTS Magistrate Judge Doyle's recommendations (Doc. 15). Defendant's Motion to Dismiss (Doc. 13) is GRANTED. Plaintiff's Motion to continue (Doc. 9) is DENIED AS MOOT, however, Plaintiff's motion for ninety days within which to file an Amended Complaint (Doc. 16) is GRANTED. Plaintiff shall file an Amended Complaint on or before January 10, 2022, or this case shall be closed.

Dated at Rutland, in the District of Vermont, this 7th day of October 2021.



Geoffrey W. Crawford, Chief Judge
United States District Court