

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

LEVI ARTHUR FEDD, Plaintiff,	::	PRISONER CIVIL RIGHTS
	::	42 U.S.C. § 1983
	::	
v.	::	
	::	
WARDEN HOLT; et al., Defendants.	::	CIVIL ACTION NO.
	::	1:16-CV-0713-RWS-RGV

**ORDER**

This case is before the Court on plaintiff Levi Arthur Fedd’s construed Objections [10] to the Non-Final Report and Recommendation (“R&R”) [8], which recommends that plaintiff’s claims against Warden Holt and Officers Sullivan and Wilson concerning the allegedly smoky, moldy condition of his cell be allowed to proceed, that all of his remaining claims be dismissed for failure to state a claim, and that his motion for a preliminary injunction [4] be denied.

In reviewing a Magistrate Judge’s Report and Recommendation, the district court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1). “Parties filing objections to a magistrate’s report and recommendation must specifically identify those findings objected to. Frivolous, conclusive, or general objections need not be considered by the district court.” United States v. Schultz, 565

F.3d 1353, 1361 (11th Cir. 2009) (per curiam) (quoting Marsden v. Moore, 847 F.2d 1536, 1548 (11th Cir. 1988)) (internal quotation marks omitted). Absent objection, the district judge “may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge,” 28 U.S.C. § 636(b)(1), and “need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation,” Fed. R. Civ. P. 72, advisory committee note, 1983 Addition, Subdivision (b). Further, “the district court has broad discretion in reviewing a magistrate judge’s report and recommendation” – it “does not abuse its discretion by considering an argument that was not presented to the magistrate judge” and “has discretion to decline to consider a party’s argument when that argument was not first presented to the magistrate judge.” Williams v. McNeil, 557 F.3d 1287, 1290-92 (11th Cir. 2009).

The pleading construed as plaintiff’s Objections to the R&R is vague and somewhat indecipherable. Plaintiff has presented no argument to show that the Magistrate Judge’s thorough and well reasoned decision and recommendation should be overturned. Instead, plaintiff raises new claims that he did not present to the Magistrate Judge and that are unrelated to the only claim recommended to proceed, i.e., the allegedly smoky, moldy condition of his cell. Having conducted a careful

review of the R&R and plaintiff's Objections thereto, the Court finds that the Magistrate Judge's factual and legal conclusions were correct and that plaintiff's objections have no merit.

Accordingly, the Court **OVERRULES** the Objections [10] and **ADOPTS** the R&R [8] as the opinion and order of the Court. Plaintiff's claims against Warden Holt and Officers Sullivan and Wilson concerning the allegedly smoky, moldy conditions of his cell may proceed as in any other civil action. However, the Court **DISMISSES** plaintiff's remaining claims for failure to state a claim and **DENIES** plaintiff's motion for a preliminary injunction [4]. The Court **DIRECTS** the Clerk to refer this action to the Magistrate Judge for further proceedings, including the issuance of an Order regarding service of process.

**SO RECOMMENDED**, this 23rd day of May, 2016.



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**RICHARD W. STORY**  
United States District Judge