

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

WARREN EASTERLING,	:	Case No. 3:13-cv-106
	:	
Petitioner,	:	Judge Timothy S. Black
	:	Magistrate Judge Michael R. Merz
vs.	:	
	:	
SECOND DISTRICT COURT OF APPEALS,	:	
	:	
Respondent.	:	

**DECISION AND ENTRY: (1) ADOPTING THE REPORT AND RECOMMENDATIONS OF THE MAGISTRATE JUDGE (Doc. 10); (2) OVERRULING PETITIONER’S OBJECTIONS TO THE DECISION AND ORDER DENYING PETITIONER’S MOTION TO AMEND (Doc. 15); AND (3) DISMISSING THE AMENDED COMPLAINT**

This civil case is before the Court on the Report and Recommendations of United States Magistrate Judge Michael R. Merz. (Doc. 10). The Magistrate Judge recommends that Petitioner’s Amended Complaint be dismissed for lack of subject matter jurisdiction. (*Id.*) In response, Petitioner moved to amend his Amended Complaint and stated that he would “file no objections beyond the amended pleadings.” (Docs. 11, 12). The Magistrate Judge denied Petitioner’s Motion to Amend as frivolous. (Doc. 14). Petitioner then filed Objections to the Magistrate Judge’s denial of his Motion to Amend. (Doc. 15). The issues are now ripe for decision by the Court.

As required by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court reviewed the comprehensive findings of the Magistrate Judge in his Report and Recommendations de novo. With regard to Petitioner’s Objections to the Magistrate Judge’s denial of his Motion to Amend, Fed. R. Civ. P. 72(a) provides that, following the issuance of an order by a Magistrate Judge on a nondispositive issue, “[t]he district judge . . . must consider timely objections and modify or set

aside any part of the order that is clearly erroneous or is contrary to law.” The Court reviews the Magistrate Judge’s factual findings under the “clearly erroneous” standard and the Magistrate Judge’s legal conclusions “under the more lenient ‘contrary to law’ standard.” *Itskin v. Gibson*, No. 2:10-cv-689, 2012 WL 787400, at \*1 (S.D. Ohio Mar. 9, 2012) (citing *Gandee v. Glaser*, 785 F.Supp. 684 (S.D. Ohio 1992), *aff’d* 19 F.3d 1432 (6th Cir.1994) (table)). Under both standards, however, the Court must “provide considerable deference to the determinations made by the magistrate judge.” *Moran v. Svete*, C-3-05-072, 2012 WL 1142929, at \*1 (S.D. Ohio Apr. 4, 2012) (citations omitted).

Upon review the issues presented herein pursuant to the applicable standards of review set forth above, the Court: (1) **ADOPTS** the Order and Report and Recommendation of the Magistrate Judge in its entirety (Doc. 10); (2) **OVERRULES** Petitioner’s Objections to the Decision and Order Denying the Motion to Amend (Doc. 15); and (3) **DISMISSES** Petitioner’s Amended Complaint (Doc. 9). The Clerk shall **TERMINATE** this case on the docket of the Court.

**IT IS SO ORDERED.**

Date: 7/25/13

s/ Timothy S. Black  
Timothy S. Black  
United States District Judge