

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DEONTAE GORDON #308075,

Case No. 08-12989

Plaintiff,

HONORABLE ARTHUR J. TARNOW  
SENIOR UNITED STATES  
DISTRICT JUDGE

v.

GARY COLLINS, ET AL.,

HONORABLE VIRGINIA M. MORGAN  
MAGISTRATE JUDGE

Defendants.

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**ORDER ADOPTING THE MAGISTRATE JUDGE'S REPORT AND  
RECOMMENDATION [64] and DENYING DEFENDANTS' MOTION FOR SUMMARY  
JUDGMENT [52]**

Before the Court is the Magistrate Judge's Report and Recommendation Denying Defendants' Motion for Summary Judgment [52] of November 5, 2010. Defendants filed an Objection [67]. Plaintiff filed a Response [68].

**I. STANDARD OF REVIEW**

The standard of review set forth in Federal Rule of Civil Procedure 72(b) governs this dispositive matter. Fed. R. Civ. P. 72(b). Pursuant to that rule, "[t]he district judge in the case must determine de novo any part of the magistrate judge's disposition that has been properly objected to." *Id.* at 72(b)(3); *see also* 28 U.S.C. § 636(b)(1)(C) (2006).

**II. ANALYSIS**

After a de novo review of the matter, the Court finds the analysis in the Report and Recommendation to be correct. Defendants' objections do not persuade the Court otherwise.

Defendants object to the Magistrate Judge's finding that Plaintiff's First Amendment claim may go forward, even though he has not alleged or suffered a physical injury. Defs.' Obj. at 2. Defendants concede that "there are cases which run counter to their position," yet

Defendants restate arguments that Judge Morgan found unpersuasive. *Id.*

Defendants also object to the Magistrate Judge's ruling that Plaintiff has set forth an issue of fact as to his retaliation claim. *Id.* at 3. Again, Defendants simply restate the arguments that Judge Morgan found unpersuasive.

The Court finds the arguments similarly unpersuasive and adopts the Magistrate Judge's Report and Recommendation as its own.

### **III. CONCLUSION**

The Court has reviewed the record and being fully advised in the premises,

**IT IS ORDERED** that the Report and Recommendation [64] of the Magistrate Judge is hereby **ADOPTED** and is entered as the findings of the Court. Defendants' Objection [67] to the Report and Recommendation is **DENIED**.

**IT IS FURTHER ORDERED** that Defendants' Motion for Summary Judgment [52] is **DENIED**.

**SO ORDERED.**

S/ARTHUR J. TARNOW  
Arthur J. Tarnow  
Senior United States District Judge

Dated: December 29, 2010

I hereby certify that a copy of the foregoing document was served upon counsel of record on December 29, 2010, by electronic and/or ordinary mail.

S/LISA M. WARE  
Case Manager