

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

MARK WHITE, ET AL.,

Case No. 09-13470

Plaintiffs,

HONORABLE ARTHUR J. TARNOW  
SENIOR UNITED STATES DISTRICT JUDGE

v.

SAGINAW COUNTY JAIL,

HONORABLE MICHAEL HLUCHANIUK  
UNITED STATES MAGISTRATE JUDGE

Defendants.

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**ORDER ADOPTING THE MAGISTRATE JUDGE’S REPORT AND  
RECOMMENDATION [84], GRANTING DEFENDANT’S MOTION TO DISMISS [30],  
DISMISSING PLAINTIFF SPERRY’S AND KELLY’S COMPLAINTS, AND CLOSING  
THIS CASE**

Before the Court is the Magistrate Judge’s Report and Recommendation [84] of August 24, 2010, which recommends that Defendant’s Motion to Dismiss [30] be granted as to Plaintiff Sperry and Plaintiff Kelly.<sup>1</sup>

**I. Standard of Review**

This Court reviews objections to a Magistrate Judge’s Report and Recommendation *de novo*. See 28 U.S.C. § 636(b)(1)(C).

**II. Plaintiff Sperry**

Plaintiff Sperry has failed to file any objection to the Magistrate Judge’s Report and Recommendation.

The Court has reviewed the record in this matter and agrees with and adopts Magistrate

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<sup>1</sup> This case was dismissed as to Plaintiff White as per the Court’s August 5, 2010 order [83] adopting the Magistrate Judge’s Report and Recommendation.

Judge Hluchaniuk's proper recommendation that Plaintiff Sperry's claims be dismissed for failure to prosecute.

### **III. Plaintiff Kelly**

Plaintiff Kelly filed an Objection [85] on September 3, 2010.<sup>2</sup>

Plaintiff Kelly raises only one objection in his filing.<sup>3</sup> Kelly claims that he has written grievances when forms have been provided to him and has "complied with the administrative process to the extent that the jail made it available for him." However, as the Magistrate Judge found, Defendant offered evidence that Plaintiff failed to file any grievances pertaining to the allegations in the complaint. The Magistrate Judge properly concluded that Plaintiff cannot rely on "bare allegations" to support his claims, which leaves nothing in the record supporting Plaintiff's allegations. In his Objection, Plaintiff states that he asked "guards and Sargrant to file charges" against inmates regarding two incidents that occurred in 2007 and 2008 but he offers no details about the exact dates of those incidents, who the guards are that were specifically asked, and who "Sargrant" is.

### **II. CONCLUSION**

The Court has reviewed the record and the parties' pleadings in this case, and being fully advised in the premises,

**IT IS ORDERED** that the Report and Recommendation [84] of the Magistrate Judge is hereby adopted and is entered as the findings and conclusions of the Court. Plaintiff Kelly's

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<sup>2</sup> Kelly also submitted on September 20, 2010 a "Request For Filing of Additional Evidence" [90], which includes a letter Kelly alleges he sent to the ACLU.

<sup>3</sup> Objection No. 1" and "Objection No. 2" are statements about what the parties are arguing, not objections.

Objection [85] is hereby **DENIED**.

**IT IS ORDERED** that Defendant's Motion to Dismiss [30], as to Plaintiffs Sperry and Kelly, is **GRANTED**.

The case is dismissed as to both Sperry and Kelly. As Plaintiff White's claims were previously dismissed, this order closes this case.

**SO ORDERED.**

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

Dated: September 28, 2010

I hereby certify that a copy of the foregoing document was served upon counsel of record and

**Christopher Sperry**  
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**Roger Kelly**  
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on September 28, 2010, by electronic and/or ordinary mail.

S/LISA M. WARE  
Case Manager