

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DeANDRE McCASKILL,

Plaintiff,

Case No. 2:11-cv-12824

v.

Hon. Patrick J. Duggan
Magistrate Judge Michael J. Hluchaniuk

KENNETH DETTLOFF,

Defendant.

**ORDER ADOPTING REPORT AND RECOMMENDATION AND
GRANTING DEFENDANT'S MOTION FOR PARTIAL SUMMARY
JUDGMENT**

On June 30, 2011, Plaintiff DeAndre McCaskill, a prisoner in the custody of the Michigan Department of Corrections (“MDOC”) instituted this prisoner’s civil rights case against Defendant Kenneth Dettloff, a prison guard. Although initially proceeding *pro se*, Plaintiff is now represented by counsel. Plaintiff’s First Amended Complaint alleges claims of First Amendment retaliation and conspiracy, brought pursuant to 42 U.S.C. §§ 1983 and 1985, as well as various state-law tort claims.

Defendant filed the first of two summary judgment motions pursuant to Federal Rule of Civil Procedure 56 on September 16, 2011. The Court referred the case to Magistrate Judge Michael J. Hluchaniuk for a report and recommendation (“R&R”) pursuant to 28 U.S.C. § 636(b)(1)(B). Magistrate Judge Hluchaniuk

issued an R&R on the motion on July 13, 2012, recommending that the Court deny Defendant's motion for summary judgment because genuine issues of material fact regarding Plaintiff's claims precluded a finding that judgment as a matter of law in Defendant's favor was proper. Magistrate Judge Hluchaniuk did, however, conclude that the issuance of a misconduct ticket could not form the basis of Plaintiff's First Amendment retaliation claim because Plaintiff was found guilty of the underlying misconduct. Neither party objected to the July 2012 R&R. The Court adopted the R&R in full in an Opinion and Order dated September 18, 2012.

Defendant filed his second Rule 56 motion seeking partial summary judgment on March 31, 2014. Once the motion had been fully briefed, Magistrate Judge Hluchaniuk reviewed the arguments of the parties and issued a second R&R dated October 31, 2014. In this R&R, Magistrate Judge Hluchaniuk thoroughly discussed the factual record and existing case law, ultimately recommending that Defendant's motion for partial summary judgment be granted. At the conclusion of the October 2014 R&R, Magistrate Judge Hluchaniuk informs the parties that any objections to the R&R must be filed within fourteen days and that the failure to file specific objections constitutes a waiver of any further right of appeal. Neither party filed objections to the R&R and the time for doing so has expired.

Upon careful review of the parties' briefs, Plaintiff's First Amended Complaint, the Joint Statement of Unresolved Issues, and the October 2014 R&R, the Court concurs with the conclusions reached by Magistrate Judge Hluchaniuk.

Accordingly,

IT IS ORDERED that Magistrate Judge Hluchaniuk's R&R (ECF No. 55) is **ADOPTED** and Defendant Kenneth Dettloff's motion for partial summary judgment (ECF No. 47) is **GRANTED**.

Dated:

s/

PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

Copies to:

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Clifton B. Schneider, AAG