

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RICKY BILLS,

Plaintiff,

Case No. 15-cv-11414

Hon. Matthew F. Leitman

v.

DANIEL HEYNS *et. al.*

Defendants.

ORDER (1) WITHDRAWING REFERENCE TO MAGISTRATE JUDGE,
(2) CONDITIONALLY APPOINTING COUNSEL FOR PLAINTIFF, (3)
TERMINATING DEFENDANTS' MOTIONS TO DISMISS (ECF ## 28, 32,
41) AND PLAINTIFF'S OBJECTION TO REPORT AND
RECOMMENDATION (ECF #52) WITHOUT PREJUDICE, AND (4)
STAYING ACTION PENDING APPOINTMENT OF COUNSEL

In this prisoner civil rights action, state prisoner Ricky Bills (“Bills”) alleges that numerous current and former employees of the Michigan Department of Corrections (the “MDOC”) misappropriated or misapplied funds that were deposited into his prison bank account. (*See* Amended Complaint, ECF #18.) Bills’ primary claim is that the Defendants violated an October 7, 2008, written order entered by the Ingham County Circuit Court (the “State Court Order”). (*See* ECF #53 at 22, Pg. ID 520.) The State Court Order required the MDOC to retain funds deposited on Bills’ behalf in order to pay a filing fee that Bills owed. (*See id.*) Bills says that the Defendants have not complied with the order and that, as a result, he has an

outstanding balance that prevents him from filing documents in the state court. (*See generally* Am. Compl.)

The Defendants have each moved to dismiss Bills' claims (the "Motions"). (*See* ECF ## 28, 32, and 41.) On January 4, 2017, the assigned Magistrate Judge issued a Report and Recommendation in which he recommended that the Court grant the Motions and dismiss Bills' claims with prejudice (the "R&R"). (*See* ECF #52.) Bills filed timely objections to the R&R on January 24, 2017 (the "Objections").¹ (*See* ECF #53.)

The Court is not comfortable that dismissal of the Amended Complaint is warranted at this time. The Court believes that the most efficient and appropriate course of action is to (1) withdraw the order of reference to the Magistrate Judge (ECF #25), (2) terminate the Motions and the Objections (ECF ## 28, 32, 41, and 52) without prejudice, (3) refer this action to the Court's Pro Bono Committee and conditionally appoint counsel for Bills providing that the committee is successful in enlisting *pro bono* counsel on Bills' behalf, and (4) stay this action pending the appointment of counsel. If the Pro Bono Committee is unsuccessful in enlisting counsel, counsel will not be appointed and Bills will continue to proceed *pro se* or

¹ Bills identified this filing as a "Motion for Reconsideration." (*See* ECF #53.) On February 2, 2017, the Court entered a written Order in which it construed Bills' "motion" as objections to the R&R. (*See* ECF #54.)

retain counsel at his own expense. Upon the appointment of *pro bono* counsel, the Court will schedule a telephonic status conference with all counsel to discuss how this action should proceed.

IT IS SO ORDERED.

Dated: February 27, 2017

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on February 27, 2017, by electronic means and/or ordinary mail.

s/Holly A. Monda
Case Manager
(313) 234-5113