

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CALEB LEWIS,

Plaintiff,

v

PATRICIA CARUSO et al.,

Defendants.

Case No. 1:08-cv-28

HON. JANET T. NEFF

JUDGMENT

This is a prisoner civil rights action filed pursuant to 42 U.S.C. § 1983. On February 4, 2008, the Magistrate Judge filed a Report and Recommendation, recommending that the action be dismissed upon initial screening pursuant to 28 U.S.C. § 1915A(b) on grounds that the complaint failed to state a claim. The matter is presently before the Court on Plaintiff's objections to the Report and Recommendation. In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the objections and issues this Judgment. See FED. R. CIV. P. 58.

Plaintiff argues that the Magistrate Judge erred in determining that he failed to state a claim. However, the Magistrate Judge properly concluded that there is a valid, rational connection between the MDOC mail policy prohibiting him from possessing certain UCC materials and a legitimate penological interest.

Plaintiff also asserts that the decision of *Jones v. Caruso*, No. 05-CV-72817-DT, 2006 WL

2805643 (E.D. Mich. Sept. 28, 2006) is controlling and prohibits Defendants from enforcing the MDOC mail policy. However, Plaintiff's argument that the decision is binding because it named the same Defendants is without merit.

In short, Plaintiff's objections demonstrate his disagreement with the Magistrate Judge's conclusions, but Plaintiff's analysis does not reveal any error by the Magistrate Judge.

For these reasons and because Plaintiff is proceeding *in forma pauperis*, this Court also certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this Judgment would not be taken in good faith. See *McGore v. Wigglesworth*, 114 F.3d 601, 610-11 (6th Cir. 1997).

THEREFORE, IT IS ORDERED that the objections (Dkts 10 & 11) are DENIED and the Report and Recommendation (Dkt 9) is APPROVED and ADOPTED as the opinion of the Court.

IT IS FURTHER ORDERED that the Complaint (Dkt 1) is DISMISSED pursuant to 28 U.S.C. § 1915A(b) for the reasons stated in the Report and Recommendation.

IT IS FURTHER ORDERED that the Court certifies pursuant to 28 U.S.C. § 1915(a) that an appeal of the Judgment would not be taken in good faith.

Date: September 10, 2008

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge