

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

EDWARD ROWLETT,

Plaintiff,

Case No. 1:11-cv-1269

v

HON. JANET T. NEFF

MICHIGAN BELL, et al.,

Defendants.

OPINION AND ORDER

Plaintiff Edward Rowlett, proceeding *pro se*, initiated the present action against Defendant Michigan Bell and Defendant Local Union 4123 in November 2011, claiming “wrongful discharge in breach of a labor agreement” (Dkt 1). Plaintiff subsequently filed Second and Third Amended Complaints (Dkts 39 & 72), alleging that Defendant Michigan Bell willfully violated the Fair Labor Standards Act (FLSA), 29 U.S.C. § 201 *et seq.*; and the Family and Medical Leave Act of 1993 (FMLA), 29 U.S.C. § 2601 *et seq.* On January 25, 2013, this Court adopted (Dkt 260) a Report and Recommendation (Dkt 209) granting Michigan Bell’s Motion to Dismiss (Dkts 84 & 85) the FMLA and FLSA claims.

Michigan Bell has now moved for summary judgment on Plaintiff’s wrongful termination claim (Dkt 185). The Local Union moved for summary judgment on Plaintiff’s breach of the duty of fair representation claim (Dkt 200). The Magistrate Judge issued a Report and Recommendation (Dkt 262) in which she concluded that the undisputed facts cannot support a finding that the Local Union breached its duty of fair representation. Accordingly, the Magistrate Judge recommends that both motions be granted and Plaintiff’s case dismissed with prejudice. The matter is presently

before the Court on Plaintiff's objections to the Report and Recommendation (Dkt 266). Michigan Bell and the Local Union responded to the objections (Dkts 270 & 271). 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 Opinion and Order.

In his objections, Plaintiff disagrees with the Magistrate Judge's conclusion but reveals no legal error in the Magistrate Judge's analysis.¹ Plaintiff takes issue with purported misstatements in the affidavits of Michael Handley, Kim Gallardo, Monica Hogan, Linda Hinton, and Theodore Meckler (Dkt 266, 14-23). However, none of the issues to which Plaintiff points in these affidavits demonstrates that the Magistrate Judge erred in her conclusion. Specifically, Plaintiff does not show that there was bad faith on the part of the Local Union or that its actions were arbitrary or discriminatory. As the Magistrate Judge indicated, neither Plaintiff's dissatisfaction with the arbitration strategy nor his dissatisfaction with the ultimate result supports Plaintiff's breach of duty of fair representation claim. The Magistrate Judge properly concluded that even viewed in the light most favorable to Plaintiff, Plaintiff's evidence does not demonstrate actions that would qualify as arbitrary, discriminatory, or in bad faith.

Therefore, Plaintiff's objections are denied, and the Magistrate Judge's Report and Recommendation is approved and adopted as the Opinion of the Court. Because this Opinion resolves the last pending claims in this case, a corresponding Judgment will issue. Accordingly:

¹Plaintiff also contends that the Magistrate Judge committed several factual errors which he enumerates on pages 6-14 of his objections under the heading "Basis of Plaintiff's Objection Brief" (Dkt 266, 6-14). However, these claimed factual errors and clarifications, even if true, do not affect the Magistrate Judge's conclusion that Defendants are entitled to judgment as a matter of law. Thus, to the extent that these alleged errors constitute proper objections, they are also denied.

IT IS HEREBY ORDERED that the Objections (Dkt 266) are DENIED and the Report and Recommendation (Dkt 262) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that Defendants' motions for summary judgment (Dkts 185 & 200) are GRANTED and Plaintiff's claims are DISMISSED WITH PREJUDICE 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.

Dated: May 28, 2013

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