

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

LANIER THOMPSON,

Plaintiff,

v.

MICHAEL MORAN, et al,

Defendants.

Case No. 1:13-CV-499

HON. GORDON J. QUIST

ORDER ADOPTING REPORT AND RECOMMENDATION

Plaintiff, Lanier Thompson, has filed an objection to Magistrate Judge Hugh W. Brenneman, Jr.'s February 9, 2015 Report and Recommendation (R & R) (dkt. # 55). In that R & R, the magistrate judge recommends granting summary judgment to Sarah Timmer, the sole remaining defendant in this case. Pursuant to 28 U.S.C. § 636(b)(1), upon receiving objections to an R & R, the district judge "shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." After conducting a *de novo* review of the R & R, Thompson's objection, and the pertinent portions of the record, the Court concludes that the R & R should be adopted as the Opinion of the Court.

Thompson objects to the magistrate judge's recommendation that the Court dismiss the retaliation claim. Thompson argues that Timmer threatened to file a misconduct ticket against him and change his medications if he refused to withdraw a grievance, and that she in fact took those actions. Thompson cannot maintain his claim based on the misconduct ticket because Thompson was found guilty of the misconduct based on some evidence. *See Jackson v. Madery*, 158 F. App'x 656, 662 (6th Cir. 2005). Furthermore, Thompson has failed to refute Timmer's sworn statement

that she did not have authority to change Thompson's medications. Accordingly, Thompson's objection is overruled.

Therefore,

IT IS HEREBY ORDERED that the magistrate judge's Report and Recommendation issued February 9, 2015 (dkt. # 55) is **ADOPTED** as the Opinion of the Court and Plaintiff's Objection (dkt. # 56) is **OVERRULED**.

IT IS FURTHER ORDERED that Defendant Timmer's Motion For Summary Judgment (dkt. # 39) is **GRANTED**, and Plaintiff's claims are **DISMISSED WITH PREJUDICE**.

A separate judgment will enter.

This case is **concluded**.

Dated: February 23, 2015

/s/ Gordon J. Quist
GORDON J. QUIST
UNITED STATES DISTRICT JUDGE