

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WILSON RIVERA,

Plaintiff,

CASE NO. 1:14-CV-214

v.

HON. ROBERT J. JONKER

MICHIGAN DEPARTMENT OF
CORRECTIONS, *et al.*,

Defendants.

**ORDER APPROVING AND ADOPTING
REPORT AND RECOMMENDATION**

The Court has reviewed Magistrate Judge Kent's Report and Recommendation in this matter (ECF No. 93) and Plaintiff's Objections to the Report and Recommendation (ECF No. 98). Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, "[t]he district judge . . . has a duty to reject the magistrate judge's recommendation unless, on de novo reconsideration, he or she finds it justified." 12 WRIGHT, MILLER, & MARCUS, FEDERAL PRACTICE AND PROCEDURE § 3070.2, at 381 (2d ed. 1997).

Specifically, the Rules provide that:

[t]he district judge must determine de novo any part of the magistrate judge's disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition; receive further evidence; or return the matter to the magistrate judge with instructions.

FED R. CIV. P. 72(b)(3). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981).

The Court has reviewed de novo the claims and evidence presented to the Magistrate Judge; the Report and Recommendation itself; and Plaintiff's objections. After its review, the Court finds that Magistrate Judge Kent's Report and Recommendation is factually sound and legally correct.

The Magistrate Judge recommends granting Defendants White and Stephens's motion for summary judgment (ECF No. 77); dismissing Plaintiff's claim against the Chaplain Advisory Council for lack of prosecution; and terminating this action. (ECF No. 93.) In his Objections, Plaintiff primarily reiterates and expands arguments he presented in his motion papers. The Report and Recommendation already carefully, thoroughly, and accurately addresses these arguments. Nothing in Plaintiff's Objections changes the fundamental analysis. The Court agrees with the Magistrate Judge's conclusions, for the very reasons the Report and Recommendation delineates.

ACCORDINGLY, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge (ECF No. 93) is approved and adopted as the opinion of the Court.

IT IS FURTHER ORDERED that Defendants White and Stephens's Motion for Summary Judgment (ECF No. 77) is **GRANTED**.

IT IS FURTHER ORDERED that Plaintiff's claim against the Chaplain Advisory Council is **DISMISSED** for lack of prosecution.

This action is **TERMINATED**.

For the same reasons that the Court dismisses the action, the Court discerns no good-faith basis for an appeal within the meaning of 28 U.S.C. § 1915(a)(3). *See McGore v. Wrigglesworth*, 114 F.3d 601, 611 (6th Cir. 1997).

Dated: August 14, 2017

/s/ Robert J. Jonker
ROBERT J. JONKER
CHIEF UNITED STATES DISTRICT JUDGE

