

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FRANKLIN CLAYTON #250554,

Plaintiff,

v.

HEIDI WASHINGTON, et al.,

Defendants.

Case No. 1:16-cv-830

HON. JANET T. NEFF

OPINION AND ORDER

This is a prisoner civil rights action filed pursuant to 42 U.S.C. § 1983 involving Plaintiff's administrative segregation based on his HIV-positive status and sexual misconducts while incarcerated. Plaintiff filed a motion for temporary restraining order (TRO) and preliminary injunction, seeking transfer to a different Michigan Department of Corrections facility. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R&R), recommending the motion be denied. 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 Opinion and Order.

Plaintiff's objections focus generally on his medical circumstances and evidence that he is "functionally cured" and no longer in an HIV infectious state. Plaintiff objects to the Report and Recommendation's statement and conclusions regarding Plaintiff being labeled as in an "infectious

state” despite an alleged finding by a chief medical officer to the contrary in or around 2008 (Pl. Obj., ECF No. 57 at PageID.1603). Plaintiff argues that it appears the Court has all but reached verdicts or made decisions on this issue (*id.* at PageID.1604). He refers to his “false” conviction “for engaging in sexual penetration with another person, when Plaintiff knew he was infected with the human immunodeficiency virus (HIV), without first informing the other person that Plaintiff was HIV infected” (*id.* at PageID.1604; R&R, ECF No. 54 at PageID.1550). He sets forth seemingly “extenuating” circumstances surrounding his sexual misconducts in prison, which combined with the other circumstances cited, have resulted in an injustice. He asserts that the “general tone of [the] papers” issued by the Magistrate Judge show that the Judge clearly has been brainwashed by the medical community, or “T.V. News, et al.” (Pl. Obj., ECF No. 57 at PageID.1607).

Plaintiff’s objections fail to demonstrate any factual or legal error in the Magistrate Judge’s analysis or conclusion on his motion for a TRO or preliminary injunction. The Magistrate Judge properly considered the applicable legal standards for injunctive relief and the record presented and properly concluded that Plaintiff was not entitled to the requested injunctive relief (R&R, ECF No. 54 at PageID.1552). Plaintiff’s objections are denied.

Accordingly, this Court adopts the Magistrate Judge’s Report and Recommendation as the Opinion of this Court. Because this action was filed *in forma pauperis*, this Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal of this decision would not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601, 610 (6th Cir. 1997), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199, 206, 211-12 (2007).

Therefore:

IT IS HEREBY ORDERED that the Objections (ECF No. 57) are DENIED and the Report and Recommendation of the Magistrate Judge (ECF No. 54) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that Plaintiff's motion for temporary restraining order and preliminary injunction (ECF No. 51) is DENIED.

IT IS FURTHER ORDERED that this Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this decision would not be taken in good faith.

Dated: October 5, 2017

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