UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WILLIAM SIM SPENCER,

Plaintiff,

v.

RICHARD SNYDER, et al.,

Defendants.
_____/

Case No. 1:16-cv-1465

HON. JANET T. NEFF

OPINION AND ORDER

Plaintiff, proceeding pro se, initiated this action in December 2016. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R&R, ECF No. 10), recommending that the action be dismissed upon initial screening pursuant to 28 U.S.C. § 1915(e)(2)(B) on grounds that the complaint failed to state a claim upon which relief could be granted. Pending before the Court is Plaintiff's Objection (ECF No. 15) to the Magistrate Judge's Report and Recommendation. Plaintiff has also filed a Motion for Leave to File Supplemental Complaint (ECF No. 11), to which Defendants have not filed a response. For the following reasons, the Court denies Plaintiff's objection and motion.

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 objection has been made. The Magistrate Judge determined that Plaintiff's Complaint fails to state any claim where (1) his arrest raises no ex post facto concerns, and (2) Plaintiff makes no allegations of wrongdoing against any of the named Defendants (R&R, ECF No. 10 at PageID.60-

61). Plaintiff's objection fails to demonstrate any factual or legal error in the Magistrate Judge's analysis.

Further, the Court will deny Plaintiff's motion for leave to amend his Complaint. Federal Rule of Civil Procedure 15(a) provides that leave to amend a pleading should be "freely given when justice so requires," but the rule does not require amendment in the face of "'undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, [or] futility of amendment.'" *Raiser v. Corp. of President of Church of Jesus Christ of Latter-Day Saints*, 494 F. App'x 506, 508 (6th Cir. 2012) (affirming the district court's decision to deny the pro se plaintiff leave to amend his complaint because "[a]ny amendment to the complaint would have been dilatory and caused undue prejudice to the defendants") (quoting *Foman v. Davis*, 371 U.S. 178, 182 (1962)). Plaintiff seeks to include "new facts [to] avoid piecemeal litigation" (ECF No. 11 at PageID.69). However, given the legal deficiencies in Plaintiff's claims, the Court determines that granting Plaintiff's request would be futile and cause undue prejudice to Defendants and therefore is not a course in the interests of justice.

Accordingly, the Court will approve and adopt the Report and Recommendation as its opinion, and a Judgment will be entered consistent with this Opinion and Order. *See* FED. R. CIV. P. 58. For the above reasons and because this action was filed 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. Wrigglesworth*, 114 F.3d 601, 610-11 (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 Objection (ECF No. 15) is DENIED and the Report and Recommendation (ECF No. 10) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that the Complaint (ECF No. 1) is DISMISSED pursuant to 28 U.S.C. § 1915(e)(2)(B) for the reasons stated in the Report and Recommendation.

IT IS FURTHER ORDERED that Plaintiff's Motion for a Temporary Restraining Order (ECF No. 3) is DENIED.

IT IS FURTHER ORDERED that Plaintiff's Motion for Leave to File a Supplemental Complaint (ECF No. 11) is DENIED.

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

This case is CLOSED.

Dated: June 8, 2017

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