

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT L. DYKES,

Plaintiff,

v.

THOMAS FINCO, et al.,

Defendants.

Case No. 1:18-cv-669

HON. JANET T. NEFF

OPINION AND ORDER

This is a prisoner civil rights action filed pursuant to 42 U.S.C. § 1983. The only remaining Defendant, Thomas Finco, filed a Motion for Summary Judgment on the grounds that he was not personally involved in the alleged illegal conduct. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R&R), recommending the Court grant Defendant Finco's Motion for Summary Judgment and dismiss Plaintiff's complaint with prejudice. The matter is presently before the Court on Plaintiff's objections to the Report and Recommendation. Plaintiff also recently filed a motion, requesting this Court "issue its final order." 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, dismisses the motion as moot, and issues this Opinion and Order.

Plaintiff objects to the Magistrate Judge's purported "attempt to manipulate the facts ..." (Pl. Obj., ECF No. 46 at PageID.296). Plaintiff states that "somehow the [M]agistrate [Judge]

failed to assert that [he] [sic] tried to amend [his] [sic] complaint on two different occasions, but has instead crafted its report to read as if [he] [sic] knowingly sued the wrong person, and made no effort to correct that matter ...” (*id.*). According to Plaintiff, he “did everything [he] could as a lay person ...,” and “this court was hell bent on dismissing [his] claim, and so, it abused its discretion with no regard for fairness” (*id.* at PageID.297).

An objection to a magistrate judge’s report and recommendation must “specifically identify the portions of the proposed findings, recommendations, or report to which objections are made and the basis for such objections.” W.D. Mich. LCivR 72.3(b). Plaintiff does not specifically identify any portion of the Magistrate Judge’s Report and Recommendation to which he objects, let alone present any developed argument demonstrating a factual or legal error in the Magistrate Judge’s analysis or ultimate conclusion regarding Defendant Finco’s motion. Therefore, the objection is denied.

Accordingly, this Court approves and adopts the Magistrate Judge’s Report and Recommendation as the Opinion of this Court. Because this Opinion and Order resolves all pending claims in this case, a Judgment will also be entered. *See* FED. R. CIV. P. 58. Further, because this action was filed *in forma pauperis*, this Court certifies pursuant to 28 U.S.C. § 1915(a)(3), as recommended by the Magistrate Judge, 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. 46) are DENIED and the Report and Recommendation of the Magistrate Judge (ECF No. 45) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that Defendant Finco’s Motion for Summary Judgment (ECF No. 42) is GRANTED.

IT IS FURTHER ORDERED that Plaintiff’s “Request that the Court issue its order in response to Defendant’s request for summary judgment,” which was docketed as a “Motion for order regarding Motion for summary judgement by defendant” (ECF No. 47) is DISMISSED as moot.

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: November 17, 2020

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