

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

JARVIS POOL,)	CASE NO. 1:16CV2908
)	
Plaintiff,)	JUDGE DONALD C. NUGENT
)	
vs.)	
)	
ASHLEY BURGER, et al.,)	<u>ORDER ADOPTING MAGISTRATE</u>
)	<u>JUDGE'S REPORT AND</u>
Defendants.)	<u>RECOMMENDATION</u>

This matter comes before the Court upon the Report and Recommendation of Magistrate Judge David A. Ruiz, (ECF #20), issued on September 5, 2017. For reasons more fully set forth herein, the Report and Recommendation is ADOPTED by this Court.

Plaintiff, Jarvis Pool, (“Mr. Pool”), filed a civil complaint in this Court on December 2, 2016, alleging claims under 42 U.S.C. §§ 1983 and 1985 against the following Defendants: Ashley Burger and Ryan Tepus, Corrections Officers at the Grafton Correctional Institution (“GCI”); Bennie Kelly, current Warden at GCI; Lashann Pepper, previous Warden at GCI; and, Gary Mohr, the Director of the Ohio Department of Rehabilitation and Correction. The complaint alleges various due process violations stemming from an incident that allegedly occurred on June 30, 2014, while Mr. Pool was an inmate at GCI. (See ECF #20, p. 2).¹

Mr. Pool asks this Court to review the decision of Magistrate Judge Ruiz, who ruled as follows: (1) Defendants’ Motion to Dismiss (ECF #10) is granted; (2) Mr. Pool’s Motion to Strike

¹ Mr. Pool is currently incarcerated at the Madison Correctional Institution. (ECF #1, ¶ 7).

(ECF #15) is denied; (3) Mr. Pool's Motion for Default Judgment (ECF #12) is denied; and (4) Defendants' Motion for Extension of Time (ECF #13) is denied as moot. Magistrate Judge Ruiz found that Mr. Pool's complaint was filed outside of the 2-year statute of limitations governing §§ 1983 and 1985 actions, and therefore, granted Defendants' Motion to Dismiss.² (See ECF #20, p. 6). Magistrate Judge Ruiz denied the Motion to Strike Defendants' Motion to Dismiss because motions to strike do not apply to dispositive motions. Finally, Magistrate Judge Ruiz denied Mr. Pool's Motion for Default Judgment, as Defendants had timely filed their Motion to Dismiss.

Mr. Pool filed Objections to the Report and Recommendation on September 25, 2017, (ECF #21), and Defendants filed a Response in Opposition on October 10, 2017 (ECF #22).

This Court has reviewed the Report and Recommendation of this case *de novo*, see *Massey v. City of Ferndale*, 7 F.3d 506 (6th Cir. 1993), and has considered all of the pleadings, affidavits, motions and filings of the parties. After careful evaluation, this Court finds that Magistrate Judge Ruiz's Report and Recommendation is thorough, well-written, well-supported and correct. This Court, therefore, adopts the findings of fact and conclusions of law of the Magistrate Judge as its own.

For the foregoing reasons, the Report and Recommendation of Magistrate Judge Ruiz is hereby ADOPTED.

Further, the Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal from this decision could not be taken in good faith, and there is no basis upon which to issue a certificate of appealability. 28 U.S.C. § 2253(c); Fed. R. App. P. 22(b).

² Since the Defendants' Motion to Dismiss was granted, Defendants' Motion for Extension of Time to Reply to Mr. Pool's motion, ECF #13, was rendered moot.

IT IS SO ORDERED.

/s/ Donald C. Nugent
DONALD C. NUGENT
United States District Judge

DATED: December 5, 2017