

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

DAVID EASLEY,	:	NO. 1:08-CV-00601
	:	
Plaintiff,	:	
	:	
v.	:	OPINION AND ORDER
	:	
GARY HAYWOOD, et al.,	:	
	:	
Defendant.	:	

This matter is before the Court on the Magistrate Judge’s Report and Recommendations (docs. 48, 49), to which Plaintiff filed an objection (doc. 55). For the reasons indicated herein, the Court ADOPTS and AFFIRMS the Magistrate Judge’s Report and Recommendations.

Plaintiff is an inmate at the Southern Ohio Correctional Facility in Lucasville, Ohio, who brings this 42 U.S.C. § 1983 matter alleging that corrections officers used excessive force against him and that corrections medical staff denied him medical care (doc. 1). Plaintiff seeks both a preliminary injunction to protect him against alleged use of force (doc. 24), and to freeze the assets of all Defendants in this matter (doc. 30).

The Magistrate Judge reviewed Plaintiff’s motions and determined that he had inadequately alleged facts warranting the injunctive relief he seeks (docs. 48, 49). Specifically, the Magistrate Judge found that Plaintiff had failed to show he has a substantial likelihood of success on the merits of his claims, or

that he will suffer irreparable harm absent an injunction (Id. citing U.S. v. Bayshore Associates, Inc., 934 F.2d 1391, 1398 (6th Cir. 1991)). As for his request for an injunction against the use of force, the Magistrate Judge found Plaintiff seeks an Order from the Court to remedy constitutional deficiencies yet to be proven, relief that is beyond the scope of injunctive relief (doc. 48, citing Southern Ohio Milk Sales, Inc. V. Martin. 924 F.2d 98, 102 (6th Cir. 1991)). For these reasons the Magistrate Judge recommended that both of Plaintiff's requests for injunctive relief be denied (docs. 48, 49).

In his Response in Opposition, Plaintiff does not address the substance of the Magistrate Judge's Report and Recommendation, but rather contends that the state has failed to provide him discovery that he has requested (doc. 55). However, the Court notes that all of the discovery at issue is already the subject of a number of motions to compel that are before the Magistrate Judge. As such, the question of whether Plaintiff is entitled to such discovery is before the Magistrate Judge, not before the undersigned.

Accordingly, the Court finds the Magistrate Judge's Report and Recommendations (docs. 48, 49), well-reasoned and correct, and therefore ADOPTS and AFFIRMS the Magistrate Judge's opinions in all respects, and DENIES Plaintiff's Motion for a Preliminary Injunction/TRO (doc. 24), and DENIES Plaintiff's Motion

to Freeze Assets/Injunction (doc. 30).

SO ORDERED.

Dated: February 2, 2010

/s/ S. Arthur Spiegel
S. Arthur Spiegel
United States Senior District Judge