UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

GARY PHILLIPS,

Plaintiff

v. **C-1-11-87**

TIMOTHY HUBBARD,

Defendant

This matter is before the Court upon the Report and Recommendation of the United States Magistrate Judge (doc. no. 62), plaintiff's objections thereto (doc. no. 64), defendant's response (doc. no. 67) and plaintiff's reply (doc. no. 68). The Magistrate Judge recommended that defendant's Motion for Summary Judgment (doc. no. 45) be granted, plaintiff's Motion for Summary Judgment (doc. no. 46) be denied and this matter be terminated on the docket of this Court.

Plaintiff objects to the Magistrate Judge's recommendation arguing that a jury question exists as to whether his federal constitutional rights were violated under the facts of this case, by the entry of the defendant onto his Brown County farm property, by his arrest, and by his prosecution.

Plaintiff further points out, as did the Magistrate Judge, that advice from the prosecutor is not dispositive in this case.

Upon a *de novo* review of the record, especially in light of plaintiff's objections, the Court finds that plaintiff's objections have either been adequately addressed and properly disposed of by the Judge or present no particularized arguments that warrant specific responses by this Court. The Court finds that the Magistrate Judge has accurately set forth the controlling principles of law and properly applied them to the particular facts of this case and agrees with the Magistrate Judge.

Accordingly, the Court hereby ADOPTS AND INCORPORATES BY REFERENCE HEREIN the Report and Recommendation of the United States Magistrate Judge (doc. no. 62). Defendant's Motion for Summary Judgment (doc. no. 45) is GRANTED and plaintiff's Motion for Summary Judgment (doc. no. 46) is DENIED.

This case is DISMISSED AND TERMINATED on the docket of this Court.

IT IS SO ORDERED.

s/Herman J. Weber
Herman J. Weber, Senior Judge
United States District Court