

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

TIMOTHY COLLINS,

Plaintiff,

v.

PATRICIA M. CLANCY, et al.,

Defendants.

Case No. 1:12-cv-152

Weber, J.
Bowman, M.J.

REPORT AND RECOMMENDATION

Proceeding under 42 U.S.C. §1983, Plaintiff Timothy Collins filed this case against multiple Defendants including the former and current Hamilton County Clerk of Courts. On September 6, 2013, Plaintiff filed a motion to dismiss the Hamilton County Defendants, without prejudice. (Doc. 83). Plaintiff represents that he seeks the dismissal of “Defendant Patricia Clancy [who] was named as a Defendant in both her individual and official capacity and Defendant Tracy Winkler [who] was named as a Defendant in her official capacity.” (*Id.*).

The undersigned notes that although the “Hamilton County Clerk of Courts” is a named Defendant, Tracy Winkler is not specifically listed on the docket sheet. It appears that this may have been an administrative oversight, to the extent that Ms. Winkler is identified by name, in her official capacity, in both the Amended Complaint and Answer to the Second Amended Complaint. (Docs. 47, 52). Any variation in the

identity of the Defendant on the docket sheet is of little import, to the extent that because Plaintiff has named Ms. Winkler solely in her official capacity, the identity of her by the title of the office she holds is sufficient.

In any event, as Plaintiff states that neither of the referenced Defendants opposes his motion, and no other Defendant has filed any opposition, **IT IS RECOMMENDED THAT** the motion to dismiss both Hamilton County Clerk of Court Patricia Clancy, in both her official and individual capacities, and Hamilton County Clerk of Court Tracy Winkler, in her official capacity, (Doc. 83) be **GRANTED**, and that all claims against those Defendants be dismissed without prejudice. Plaintiff's claims against the remaining Defendants shall proceed at this time.¹

s/ Stephanie K. Bowman
Stephanie K. Bowman
United States Magistrate Judge

¹All other Defendants have moved for summary judgment. (Docs. 85, 86). Plaintiff has filed memoranda in opposition to those motions, but the Defendants' reply time has not yet expired.

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NOTICE

Pursuant to Fed. R. Civ. P 72(b), any party may serve and file specific, written objections to this Report and Recommendation (“R&R”) within **FOURTEEN (14) DAYS** of the filing date of this R&R. That period may be extended further by the Court on timely motion by either side for an extension of time. All objections shall specify the portion(s) of the R&R objected to, and shall be accompanied by a memorandum of law in support of the objections. A party shall respond to an opponent’s objections within **FOURTEEN (14) DAYS** after being served with a copy of those objections. Failure to make objections in accordance with this procedure may forfeit rights on appeal. See *Thomas v. Arn*, 474 U.S. 140 (1985); *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).