

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

ROY A. DURHAM, JR.,

Plaintiff

v.

C-1-13-226

ROB JEFFREYS, et al.,

Defendants

ORDER

This matter is before the Court upon the Report and Recommendation of the United States Magistrate Judge (doc. no. 35) to which neither party has objected.

Upon a *de novo* review of the record, the Court finds that the Judge has accurately set forth the applicable law and has properly applied it to the particular facts of this case. Accordingly, in the absence of any objection by plaintiff, this Court accepts the Report as uncontroverted.

The Report and Recommendation of the United States Magistrate Judge (doc. no. 35) is hereby ADOPTED AND INCORPORATED HEREIN BY REFERENCE.

The Second Amended Complaint is DISMISSED for failure to state a claim upon which relief may be granted to the extent that plaintiff has named Rodney McIntosh, Parvez Sarwar, Romanak, Maggard and Bush as defendants and seeks to bring claims challenging (1) the handling of his “kites,” complaints and grievances while he was incarcerated at WCI; (2) the conduct of a RIB proceeding that resulted in his confinement in segregation for a 100-day period at WCI; (3) the denial of recreational and telephone privileges while he was in segregation at WCI; and (4) the failure of defendant Romanak to adequately protect against the loss of plaintiffs “property.” Specifically, claims alleged against McIntosh in paragraphs 38-48 of the Second Amended Complaint, any other claims in the Second Amended Complaint challenging the handling of plaintiff’s complaints and grievances by other named defendants, and the claims alleged in paragraphs 45, 46 and 50 of the Second Amended Complaint are DISMISSED on the ground that plaintiff has failed to state a claim upon which relief may be granted by this Court. *See* 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b).

**This case is RECOMMENDED to the United States Magistrate Judge
for further proceedings according to law.**

IT IS SO ORDERED.

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