

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

WILLIAM FEARS,	:	Case No. 1:16-cv-316
	:	
Plaintiff,	:	Judge Timothy S. Black
	:	Magistrate Judge Stephanie K. Bowman
v.	:	
	:	
KIP DUNAGAN,	:	
	:	
Defendant.	:	

**DECISION AND ENTRY ADOPTING THE REPORT AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE
(Doc. 4)**

This case is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to United States Magistrate Judge Stephanie K. Bowman. Pursuant to such reference, the Magistrate Judge reviewed the pleadings filed with this Court and, on March 21, 2016, submitted a Report and Recommendation. (Doc. 4). Plaintiff timely filed objections. (Doc. 6).¹

As required by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge and considered *de novo* all of the filings in this matter. Upon consideration of the foregoing, the Court does

¹ Plaintiff's objections argue that dismissal of the Complaint is not appropriate because genuine issues of material fact exist. Plaintiff's objections are OVERRULED. Specifically, Plaintiff's Complaint is subject to dismissal because (1) it is time-barred; (2) Plaintiff's convictions and sentences still stand and have not been overturned or invalidated in accordance with *Heck v. Humphrey*, 512 U.S. 477, 487 (1994); and (3) the application of *res judicata* is appropriate. Plaintiff's objections fail to address these bases for dismissal.

determine that such Report and Recommendation should be and is hereby adopted in its entirety. Accordingly:

1. The Report and Recommendation (Doc. 4) is **ADOPTED**;
2. Plaintiff's Complaint is **DISMISSED** with prejudice pursuant to 28 U.S.C. Section 1915(e)(2)(B) and 1915A(b)(1);
3. Pursuant to 28 U.S.C. Section 1915(a)(3), an appeal of this Order would not be taken in good faith and therefore, Plaintiff is denied leave to appeal *in forma pauperis*; and
4. The Clerk shall enter judgment accordingly, whereupon this civil action is **TERMINATED** in this Court.

IT IS SO ORDERED.

Date: 4/26/16

s/ Timothy S. Black
Timothy S. Black
United States District Judge