

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JONATHAN T. THOMAS,	:	Case No. 1:16-cv-793
Plaintiff,	:	Judge Timothy S. Black
	:	Magistrate Judge Karen L. Litkovitz
vs.	:	
	:	
RON ERDOS, <i>et al.</i> ,	:	
Defendants.	:	

**DECISION AND ENTRY
ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE (Doc. 20)**

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 Karen L. Litkovitz. Pursuant to such reference, the Magistrate Judge reviewed the pleadings filed with this Court and, on January 17, 2017, submitted a Report and Recommendation. (Doc. 20). Plaintiff filed objections on January 27, 2017. (Doc. 22).¹

¹ Plaintiff's objections are not well taken. The Report and Recommendation recommends that this Court deny Plaintiff's motion for preliminary injunction, as the four factors to be weighed in evaluating the merits of a preliminary injunction (likelihood of success on the merits, irreparable harm to movant absent the injunction, substantial harm to others caused by the injunction, and the public interest) do not balance in Plaintiff's favor. (Doc. 20, at 1–2 (citing *Leary v. Daeschner*, 228 F.3d 729, 736 (6th Cir. 2000))). Plaintiff's objection claims that the four factors do balance in his favor, but Plaintiff does not support that through argument or evidence. Plaintiff's argument for his likely success on the merits of his civil action rests upon alleged video evidence that has not yet been discovered, but which Plaintiff claims will vindicate his position. This is not sufficient to demonstrate a likelihood of success. Plaintiff also fails to address the report and recommendation's finding that Plaintiff's preliminary injunction, which requests that he be moved from the facility in which he is currently incarcerated for the duration of these proceedings, does not seek to preserve the status quo (as is the standard purpose of a preliminary injunction) but rather seeks to disrupt it. Accordingly, the Court adopts the report and recommendation in its entirety.

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

Plaintiff's objections contain two requests unrelated to the report and recommendation. The first is that the Court "remove defendant Destel as a defendant from this case due to a lack of evidence to support his claim." (Doc. 22, at 1). There is currently no "Defendant Destel" in this action, but Plaintiff alluded to adding a "Ms. Distel" in his previous motion to supplement the complaint. (Doc. 17, at 2). As no formal claim against Ms. Distel/Destel has been filed, no action is required here. Plaintiff's second additional request asks the Court to correct his supplemental complaint—his previous motion to supplement the complaint named Officer Rogers as a new defendant, but Plaintiff now claims he has learned that the individual he was referring to is in fact named Officer Scott. (Doc. 22, at 1). The Court construes this as a motion to further amend the Complaint and accordingly grants that motion. The Magistrate Judge's previous Order allowing Plaintiff to supplement his complaint required Plaintiff to submit a copy of the original complaint and supplemental complaint, a summons form, and a United States Marshal form for each newly named defendant. (Doc. 19, at 4). Defendant has not yet done so; the Court will extend the deadline for Plaintiff's compliance with that Order to allow for Plaintiff to acquire the required forms

for Defendant Officer Scott and remove reference to Officer Rogers and Ms.

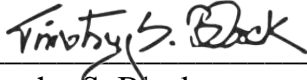
Distel/Destel from his supplemental complaint.

Accordingly, for the reasons outlined above:

- 1) Plaintiff's request for preliminary injunction (Doc. 17) is **DENIED**;
- 2) The deadline for Plaintiff to submit a copy of his original complaint and his supplemental complaint, a summons form, and a United States Marshal Form for each of the newly named Defendants in his motion for supplementary complaint (Doc. 17) is **POSTPONED** to 14 days from the date of this Order. Plaintiff's submitted forms shall reflect the changed identification of new Defendants as reflected in Plaintiff's objections to the report and recommendation (Doc. 22).

IT IS SO ORDERED.

Date: 2/1/17



Timothy S. Black
United States District Judge