

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

CHRISTOPHER FOSTER,	:	Case No. 1:16-cv-920
	:	
Plaintiff,	:	Judge Timothy S. Black
	:	Magistrate Judge Stephanie K. Bowman
vs.	:	
	:	
STATE OF OHIO, <i>et al.</i> ,	:	
	:	
Defendants.	:	

**DECISION AND ENTRY
ADOPTING THE REPORTS AND RECOMMENDATIONS
OF THE UNITED STATES MAGISTRATE JUDGE (Doc. 112, 126) AND
TERMINATING THIS CASE IN THIS COURT**

This case is before the Court pursuant to the Order of General Reference to United States Magistrate Judge Stephanie K. Bowman. Pursuant to such reference, the Magistrate Judge reviewed the pleadings filed with this Court and, on September 12, 2018, submitted a Report and Recommendation (the “First R&R”). (Doc. 112). Plaintiff filed objections to the First R&R on October 9, 2018. (Doc. 117). The Magistrate Judge subsequently submitted a second Report and Recommendation (the “Second R&R”) on December 21, 2018. (Doc. 126). Plaintiff filed untimely objections to the Second R&R on January 10, 2019. (Doc. 127).

After reviewing the First and Second R&Rs, Plaintiff’s objections, and the voluminous record in this case, and in the numerous state and federal actions Plaintiff has filed during his incarceration, the Court finds that Plaintiff’s objections are not well-taken.

First, consistent with prior R&Rs and Orders (Docs. 12, 25, 43, 98, 101), the Court finds that Plaintiff's excessive force claims against various Defendants, his deliberate indifference claims against Dr. Faisal Ahmed, and all claims against Defendant Warden Erdos should be dismissed.

Next, the Court agrees with the Magistrate Judge's analysis that Defendant Bear and Dyer's motion for summary judgment on Plaintiff's Eighth Amendment excessive force and conditions-of-confinement claims should be granted. As the Magistrate Judge details in the Second R&R, no evidence in the record supports either the subjective or objective components of an excessive force claim. (See Doc. 126 at 22–25). Moreover, Plaintiff fails to state a conditions-of-confinement claim because, as the Magistrate Judge discusses in detail, the record contains no evidence demonstrating that Plaintiff was incarcerated under conditions that posed a substantial risk of serious harm. (*Id.* at 25–33). Additionally, the Court agrees with the Magistrate Judge's finding that Defendants Bear and Dyer are entitled to qualified immunity on both claims. (*Id.* at 33–34). Accordingly, the Court agrees with the Magistrate Judge's recommendation that Defendants' motion for summary judgment (Doc. 113) should be granted and Plaintiff's third motion for summary judgment (Doc. 108) should be denied.

The Court also concurs with the Magistrate Judge's recommendation that Plaintiff's other motions, including a motion for sanctions (Doc. 102), a motion to reverse this Court's Order adopting the Report and Recommendation of the Magistrate Judge (Doc. 104), a motion trumping penological interests that aren't legit . . . (Doc. 105), and a motion to strike the Defendants' notice and/or motion to strike the video exhibit

submitted in support of Defendants' motion for summary judgment (Doc. 120) should be denied

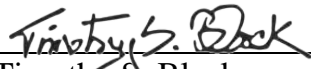
As required by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge and considered *de novo* all of the filings in this matter. Upon consideration of the foregoing, the Court does determine that Plaintiff's objections (Docs. 117, 127) should be and are hereby **OVERRULED** and the Reports and Recommendations (Docs. 112, 126) should be and are hereby **ADOPTED** in their entirety.

Accordingly, for the reasons stated above:

- 1) The Court **DISMISSES** all claims against Officer Rardin, Officer Neff, Officer Parish, John Doe Officer, Steven Workman, Dr. Ahmed, and Warden Erdos consistent with prior Reports and Recommendations and Orders (Docs. 12, 25, 43, 98, 101).
- 2) Plaintiff's motion for sanctions (Doc. 102) is **DENIED**.
- 3) Plaintiff's motion to reverse Order Adopting Report and Recommendation and/or motion for summary judgment (Doc. 104) is **DENIED**.
- 4) Plaintiff's motion trumping penological interests that aren't legit, etc. (Doc. 105) is **DENIED**.
- 5) Plaintiff's third motion for summary judgment (Doc. 108) is **DENIED**.
- 6) Defendants' motion for summary judgment (Doc. 113) is **GRANTED** and all remaining claims are dismissed
- 7) Plaintiff's motion to strike the Defendants' notice and/or motion to strike the video exhibit submitted in support of Defendants' motion for summary judgment (Doc. 120) is **DENIED**.
- 8) The Clerk shall enter judgment accordingly, whereupon this case is **TERMINATED** from the docket of this Court.

IT IS SO ORDERED.

Date: 1/15/19



Timothy S. Black
United States District Judge