

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

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| DERRICK SWEETING, | : | Case No. 1:20-cv-251 |
| | : | |
| Plaintiff, | : | Judge Timothy S. Black |
| | : | |
| vs. | : | Magistrate Judge Karen L. Litkovitz |
| | : | |
| WARDEN ERDOS, | : | |
| | : | |
| Defendant. | : | |

**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 to United States Magistrate Judge Karen L. Litkovitz. Pursuant to such reference, the Magistrate Judge reviewed the pleadings filed with this Court and, on October 8, 2020, submitted a Report and Recommendations. (Doc. 20). Plaintiff submitted objections.¹ (Doc. 30).

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 finds that the Report and Recommendations should be and is hereby adopted in its entirety.²

¹ Plaintiff's objections (and his other filings subsequent to his objections) do not demonstrate that any portion of the Magistrate Judge's Report was in error. The objections are **overruled**. Plaintiff's filings after his objections (Docs. 32, 33, 34) are **denied as moot**.

² Some of the facts underlying Plaintiff's complaint also appear to be at issue in *Sweeting v. Erdos, et al.*, Case No. 1:20-cv-290 (S.D. Ohio) (Dlott, J.; Litkovitz, M.J.). On July 14, 2020, Defendant Erdos was dismissed from that action, after *sua sponte* review of the complaint. (Doc. 20.) On August 31, 2021, the Court granted the remaining Defendants' motion for summary judgment and terminated that action. (Doc. 77).

Accordingly, for the reasons stated above:

1. The Report and Recommendation (Doc. 20) is **ADOPTED**;
2. Plaintiff's objections are **OVERRULED**;
3. Plaintiff's motions filed after his objections (Doc. 32, 33, 34) are **DENIED as moot**;
4. To the extent the success of Plaintiff's Fourteenth Amendment due process claim could affect his release date from prison, that claim is **DISMISSED** as *Heck*-barred **WITHOUT PREJUDICE** to refiling should Plaintiff show that his disciplinary conviction has been overturned.
5. To the extent Plaintiff's Fourteenth Amendment due process claim is not *Heck*-barred, that claim, as well as Plaintiff's other federal claims, are **DISMISSED** pursuant to §§ 1915(e)(2)(B) and 1915A(b)(1).
6. To the extent Plaintiff claims the actions of Warden Erdos violate state law, the Court **DECLINES TO EXERCISE PENDENT JURISDICTION** over such claims because Plaintiff fails to state a viable federal law claim. *See* 28 U.S.C. § 1367(c)(3).
7. The Court **CERTIFIES** that pursuant to 28 U.S.C. § 1915(a)(3), an appeal of this Order would not be taken in good faith, and Plaintiff is **DENIED** leave to appeal *in forma pauperis*.
8. The Clerk shall enter judgment accordingly, whereupon this case is **TERMINATED** from the docket of this Court.

IT IS SO ORDERED.

Date: 9/3/2021

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