

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

RONALD BLOODWORTH,

Plaintiff,

vs.

Civil Action 2:10-CV-1122  
Judge Marbley  
Magistrate Judge King

DEBORA A. TIMMERMAN-COOPER,  
WARDEN, et al.

Defendants.

ORDER

On February 12, 2012, the Magistrate Judge issued a *Report and Recommendation* recommending that Defendant's *Motion to Dismiss*, Doc. No. 39, be granted in part and denied in part. *Report and Recommendation*, Doc. No. 51. In particular, the Magistrate Judge recommended that Counts I, II, III, VIII and X be dismissed but that all other claims remain for resolution. *Id.* Plaintiff has filed *Objections* to the *Report and Recommendation*. *Objections*, Doc. No. 60. The Court will consider the matter *de novo*. 28 U.S.C. 636(b); Fed. R. Civ. P. 72(b).

Plaintiff does not object to the recommendation that Counts VIII and X be dismissed, but does object to the recommendation that Counts I, II, and III of the *Complaint* be dismissed as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(b)(i). Counts I, II, and III allege a secret surveillance campaign against him in violation of his rights under the Fourth and Eighth Amendments to the United States Constitution:

[As] plaintiff engaged in various activities, considered personal [inside] of his cell, i.e., pick up a piece of paper, write on a piece of paper, experienced flatulence, touched his pencil, moved his eyeballs, and, touched a piece of paper, simultaneous therewith, and not until, corrections officers working segregation would either: open the block entrance/exit door, slam what sounds like a door in the area outside the [Cell] where officers congregate, extremely loudly, speak in a abrupt tone of voice to inmate in a cell on the Cell,

a-d slam the C-Ra-ge e-tra-ce door very loudly.

*Third Amended Complaint*, Doc. No. 34, ¶ 11. Plai-tiff complai-s that he was "bei-g co-sta-tly watched by a- u-k-ow- priso- official, via covert a-d/or overt video surveilla-ce cameras/equipme-t." *Id.*, ¶ 13. The Magistrate Judge recomme-ded that these claims be dismissed as frivolous because they lack a- arguable basis either i- law or fact a-d are based o- "fa-ciful factual allegatio-[s]." *Report and Recommendation*, p. 4, quoti-g *Neitzke v. Williams*, 490 U.S. 319, 325 (1989).

Plai-tiff objects to this recomme-datio-, argui-g that these claims "are clearly -ot as far out as" the claims asserted i- other cases dismissed o- similar grou-ds. *Objections*, Doc. No. 60, pp. 4-5; see *Lawler v. Marshall*, 898 F.2d 1196, 1199 (6th Cir. 1990); *Turner v. U.S. Navy*, 793 F. Supp. 679, 680 (E.D. Va. 1992). Plai-tiff also argues that his allegatio-s are -ot frivolous because of "the existe-ce of video surveilla-ce cameras a-d spyware equipme-t, purportedly portrayi-g the wro-gdoi-g." *Objections*, Doc. No. 60, p.7.

This Court agrees that the claims asserted i- cou-ts I, II a-d III of the *Third Amended Complaint* lack a- arguable basis either i- law or fact a-d are appropriately dismissed. U-der these circumsta-ces, plai-tiff's *Objection*, Doc. No. 60, is **OVERRULED**. The *Report and Recommendation*, Doc. No. 51, is **ADOPTED and AFFIRMED**.

Defe-da-ts' *Motion to Dismiss*, Doc. No. 39, is **GRANTED** i- part a-d **DENIED** i- part. Cou-ts I, II, III, VIII, a-d X of the *Third Amended Complaint*, Doc. No. 34, are therefore **DISMISSED**. All other claims remai- for resolutio-.

s/Algenon L. Marbley  
Algenon L. Marbley  
United States District Judge