

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

Charles Robinette III,

Plaintiff,

Civil Action 2:11-cv-174

v.

Judge Watson

George Lavender, Jr., et al.,

Magistrate Judge Abel

Defendants.

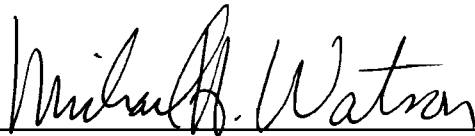
ORDER ADOPTING REPORT AND RECOMMENDATION

Plaintiff filed this action on February 25, 2011, alleging that he was wrongly arrested on December 18, 2010. He stated that he wished to bring claims against Ross County Deputy Sheriff Elward and Ross County Sheriff George Lavender, Jr. for “dereliction of duty”. Upon initial screening, the Magistrate Judge determined that Plaintiff intended to bring claims under 42 U.S.C. §1983 for unconstitutional imprisonment. However, applying *Wallace v. Kato*, 549 U.S. 384 (2007), the Magistrate Judge found that Plaintiff’s suit was premature because he did not allege that he had yet been convicted of or sentenced for any crime, he therefore could not yet file a suit which would inherently challenge the validity of his imprisonment. The Magistrate Judge recommended that the Court stay this action pending the trial, dismissal, or other adjudication of the charge or charges pending against Plaintiff.

No party filed objections to the Report and Recommendation. Accordingly, the Court **ADOPTS** the Report and Recommendation. It is hereby **ORDERED** that this

case be **STAYED** and **ADMINISTRATIVELY CLOSED** pending the trial, dismissal, or other adjudication of the charge or charges pending against Plaintiff Charles Robinette III resulting from his December 18, 2010 arrest. Such stay does not bar Plaintiff from filing a petition for writ of habeas corpus in this Court.

IT IS SO ORDERED.



MICHAEL H. WATSON, JUDGE
UNITED STATES DISTRICT COURT