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

HARRY WILLIAM LOTT, :

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Plaintiff, : Case No. 2:13-CV-00562

:

v. : JUDGE ALGENON L. MARBLEY

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THE DISTRICT COURT FOR THE : Magistrate Judge Abel

SOUTHERN DISTRICT OF OHIO, et al.,

Defendants.

ORDER

This matter is before the Court on the United States Magistrate Judge's **Report and Recommendation** (Doc. 28), recommending that the Court deny Plaintiff Harry William Lott's Motion under Fed. R. Civ. P. 60 (Doc. 27). On October 8, 2013, the Court issued an Order (Doc. 25) overruling Plaintiff's objections and adopting the Initial Screening Report and Recommendation under 28 U.S.C. § 1915(e)(2)(B) (Doc. 21), which recommended that the case be dismissed for failure to state a claim and for seeking damages against defendants who are subject to complete immunity. On October 15, Plaintiff filed this Motion under Fed. R. Civ. P. 60, seeking review of the dismissal Order. Plaintiff argues that an exception to the Eleventh Amendment permits citizens to seek an injunction against state officials in federal court to end a continuing violation of federal law. (Doc. 27 at 1). Plaintiff also maintains that he is entitled to a hearing under procedural due process.

On November 6, 2013, the Magistrate Judge recommended that the Motion be denied, since Plaintiff was provided with an opportunity to object to the Initial Screening Report and Recommendation, and the Court considered and overruled his objections. (Doc. 28 at 1). Plaintiff was specifically advised of his right to object to this Report and Recommendation, and

of the consequences of his failure to do so. (*Id.* at 2). He acknowledged service of the Report and Recommendation on November 8, 2013. (Doc. 29). No objection has been filed.

Since neither party has objected, and deadline for such objections elapsed on November 20, 2013, the Court **ADOPTS** the Report and Recommendation. The Motion is **DENIED**.

IT IS SO ORDERED.

s/ Algenon L. Marbley
ALGENON L. MARBLEY
UNITED STATES DISTRICT JUDGE

DATED: February 7, 2014