

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

JOHN BENNETT,

Plaintiff,

vs.

Case No.: 2:14-cv-1450

JUDGE SMITH

Magistrate Judge Abel

GARY C. MOHR, et al.,

Defendants.

ORDER

On October 7, 2014, the United States Magistrate Judge issued an *Initial Screening Report and Recommendation* recommending that the case continue as to Defendants Jason Bunting and Thomas King, and dismiss Plaintiff's claims as to all other Defendants. (*See Report and Recommendation*, Doc. 4). The parties were advised of their right to object to the *Report and Recommendation*. This matter is now before the Court on Plaintiff's Objections to the Magistrate Judge's *Report and Recommendation*. (*See* Doc. 14). The Court will consider the matter *de novo*. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

The Plaintiff raises ten objections, including primarily issues that were previously considered by the Magistrate Judge in the *Report and Recommendation*. The Court acknowledges that the *Report and Recommendation* incorrectly refers to Plaintiff as King, and it should have said John Bennett. Further, Plaintiff's Complaint refers to his confinement at Marion Correctional Institution or MCI, not MaCI. However, with respect to the substantive objections, the Court agrees with the findings of the Magistrate Judge that the Complaint does

not allege that Defendants Mohr, Voorhies, Bobby, Justice, Croft, Smith, Chatman, Paine, Rinehart, Grisham, Black, Morgan, Straker, and Sims took any action to deprive Plaintiff of a constitutional right. Therefore, for the reasons stated in the *Report and Recommendation*, this Court finds that Plaintiff's objections are without merit, with the exception of the technical corrections noted above.

The *Report and Recommendation*, Document 4, is **ADOPTED** and **AFFIRMED**. **This case shall proceed against Defendant's Jason Bunting and Thomas King. All other Defendants are hereby dismissed.**

Plaintiff has also filed a Motion for Appointment of Counsel. (*See* Doc. 11). Because the action has not yet progressed to the point that the Court is able to evaluate the merits of Plaintiff's claim, Plaintiff's Motion for Appointment of Counsel, Doc. No. 11, is **DENIED** without prejudice to renewal at a later stage of the proceedings. *See Henry v. City of Detroit Manpower Dept.*, 763 F.2d 757, 760 (6th Cir. 1985)(*en banc*)("[I]n considering an application for appointment of counsel, district courts should consider plaintiff's financial resources, the efforts of plaintiff to obtain counsel, and whether plaintiff's claim appears to have any merit.").

The Clerk shall remove Documents 4 and 11 from the Court's pending motions list.

IT IS SO ORDERED.

/s/ George C. Smith
GEORGE C. SMITH, JUDGE
UNITED STATES DISTRICT COURT