

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

MARK M. LONG,

Plaintiff,

vs.

**Case No.: 2:15-cv-1616
JUDGE GEORGE C. SMITH
Magistrate Judge Jolson**

GARY MOHR, et al.,

Defendants.

ORDER

On October 16, 2017, the United States Magistrate Judge issued a *Report and Recommendation* recommending that Plaintiff's "Dispositive Motion" be denied and Defendants' Motion for Summary Judgment be granted. (*See Report and Recommendation*, Doc. 109). The parties were advised of their right to object to the *Report and Recommendation* and of the consequences of their failure to do so. This matter is now before the Court on Plaintiff's Response and Objection to the *Report and Recommendation*. (Doc. 110).

Plaintiff's objections consist of 126 pages of the same arguments presented to the Magistrate Judge in his previous Response. Nonetheless, the Court will address some of his primary arguments. First, Plaintiff takes issue with the Magistrate Judge construing his "Dispositive Motion," document 83, as seeking summary judgment. Plaintiff asserts that he wants the Court to deny Defendants' Motion and that he wants a jury trial. There was no error by the Magistrate Judge as Plaintiff did make arguments in his motion that if found to be substantiated, such arguments could have been granted or been sufficient to set this case for trial. However, that was not the outcome after careful review by the Magistrate Judge.

Next, Plaintiff continues to argue about the pain he is under and challenging the findings regarding his medical conditions. He specifically argues that many statements in the Report and Recommendation made by his treating physician Dr. Neufield are incorrect. He argues that the description of his condition “necrosis” was incorrect and that actually the left hip bone is dead and he is in need of a total left hip replacement. (Doc. 110, Pl.’s Objs. at 5-6). Additionally, he challenges the discussion of Plaintiff seeking pain meds and then being described a beta-blocker, suggesting that was for pain and it was not. However, these arguments and the other similar arguments have no bearing on the legal analysis conducted by the Magistrate Judge. Plaintiff has not provided a sufficient argument as to how the legal analysis in the *Report and Recommendation* is incorrect.

Plaintiff argues that there are genuine issues of material fact on page 37 of his Objections, arguing that there is proof in the MRI and report from the Orthopedic surgeon that his left hip should be replaced. The Court, however, agrees with the analysis of the Magistrate Judge on this issue. There does not appear to be a dispute regarding Plaintiff’s medical diagnosis, but the question is whether the condition was sufficiently serious to require an operation. Mere differences in opinion as to the kind of treatment a prisoner needs does not rise to the level of deliberate indifference. *Umbarger v. Corr. Med. Servs.*, 93 F. App’x 734, 736 (6th Cir. 2004).

Plaintiff also seems to concede that he received pain medications, but argues that the medications he was given did not work. But, again, merely ignoring Plaintiff’s preference in medications is not deliberate indifference.

Therefore, for the reasons stated in the Magistrate Judge’s *Report and Recommendation*, this Court finds that Plaintiff’s objections are without merit and are hereby **OVERRULED**.

The Magistrate Judge's Report and Recommendation, Document 109, is **ADOPTED** and **AFFIRMED**. Plaintiff's Dispositive Motion (Doc. 83) is **DENIED** and Defendants' Motion for Summary Judgment (Doc. 95) is **GRANTED**.

The Clerk shall remove Documents 83, 95, 109 and 110 from the Court's pending motions list and enter final judgment in this case.

IT IS SO ORDERED.

/s/ George C. Smith

GEORGE C. SMITH, JUDGE
UNITED STATES DISTRICT COURT