

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

KEITH LAMARR JONES,

Plaintiff,

vs.

**Case No.: 2:16-cv-519
JUDGE GEORGE C. SMITH
Magistrate Judge Kemp**

CATHY PUMMILL, et al.,

Defendants.

ORDER

On March 22, 2017, the United States Magistrate Judge issued a *Report and Recommendation* recommending that Plaintiff's Motion for Default Judgment be denied and Defendant Bethel's Motion to Dismiss be granted. (*See Report and Recommendation*, Doc. 17). 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 *Report and Recommendation*. (*See Doc. 18*). Defendant has responded in opposition. (Doc. 19). The Court will consider the matter *de novo*. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

The objections present, once again, the issues presented to and considered by the Magistrate Judge in the *Report and Recommendation*. Specifically, Plaintiff continues to argue that the conduct report was issued in retaliation for his exercise of his First Amendment rights. However, the Court has carefully considered Plaintiff's objections and nonetheless, agrees with the reasoning set forth in the *Report and Recommendation*. The caselaw cited by the Magistrate Judge clearly shows that not all speech is protected by the First Amendment. Plaintiff's speech

regarding grievances about the prisoner litigation process was deemed inappropriate. Therefore, the conduct report was not retaliation, but was a legitimate response to an inappropriate comment. For the reasons stated in the *Report and Recommendation*, this Court finds that Plaintiff's objections are without merit and are hereby **OVERRULED**.

The *Report and Recommendation*, ECF No. 17, is **ADOPTED** and **AFFIRMED**. Plaintiff's Motion for Default Judgment against Colleen Bethel is **DENIED**. And Defendant Bethel's Motion to Dismiss is **GRANTED**.

The Clerk shall remove Documents 10, 11, and 17 from the Court's pending motions list.

IT IS SO ORDERED.

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