

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

KEVIN A. TOLLIVER,

Plaintiff,

vs.

**Case No.: 2:16-cv-1020
JUDGE GEORGE C. SMITH
Magistrate Judge Jolson**

WARDEN NOBEL, et al.,

Defendants.

ORDER

On January 13, 2017, the United States Magistrate Judge issued an *Order and Report and Recommendation* recommending that Plaintiff's Motion for Leave to Proceed in forma pauperis be granted; Plaintiff's Motion for Temporary Restraining Order be denied and Plaintiff's Complaint be dismissed for failure to state a claim upon which relief may be granted. (*See Report and Recommendation*, Doc. 11). 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. 12). The Court will consider the matter *de novo*. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

Plaintiff objects to the Magistrate Judge's *Order and Report and Recommendation*, by arguing that he has filed a Motion to Amend his Complaint, but actually he has filed a Motion for Extension of Time to file an Amended Complaint, which has been received and docketed by the Court as ECF No. 13. Plaintiff's objections attempt to summarize his claim(s): "violat[ion] of my U.S. Constitutional Rights under the First, Eighth and Fourteenth Amendments" and "I

filed grievances against said conduct and exhausted administrative remedies on November 29, 2016.” (ECF No. 12, Pl.’s Objs. at 2). However, Plaintiff’s objections present the same issues presented to and considered by the Magistrate Judge in the *Order and Report and Recommendation*. He has failed to establish any basis for reconsideration of the Magistrate Judge’s conclusions that his Complaint fails to state a claim which relief may be granted by this Court. Therefore, for the reasons stated in the *Order and Report and Recommendation*, this Court finds that Plaintiff’s objections are without merit and are hereby **OVERRULED**.

The *Order and Report and Recommendation*, ECF No. 11, is **ADOPTED** and **AFFIRMED**. Plaintiff’s Complaint is hereby **DISMISSED** for failure to state a claim. Further, Plaintiff’s Motion for Extension of Time to File an Amended Complaint is **DENIED AS MOOT**.

The Clerk shall remove Documents 2, 5, 11, and 13 from the Court’s pending motions list. The Clerk shall terminate this case.

IT IS SO ORDERED.

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