

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

KEVIN A. TOLLIVER,

Plaintiffs,

vs.

Case No. 2:16-cv-1020

Judge Edmund A. Sargus, Jr.

Chief Magistrate Judge Kimberly A. Jolson

WARDEN NOBLE,

Defendant.

OPINION AND ORDER

This matter is before the Court on (A) Plaintiff's Motion for a Telephone Conference (ECF No. 146), and his Renewed Objection to Magistrate's Position on Declaratory Judgment Issues Contained in Complaint (ECF No. 147); and (B) Defendant's Motion for an Extension of Time to File Dispositive Motion (ECF No. 148). For the reasons that follow, the Court **DENIES** Plaintiffs' motions and **GRANTS** Defendant's motion.

(A) Plaintiff's Motions

After years of litigation before this Court and the Sixth Circuit, Plaintiff has remaining in this case a claim of retaliation against Defendant. Discovery on that claim is complete, and dispositive motions, and trial have been scheduled. (ECF No. 143.)

In Plaintiff's Renewed Objection to Magistrate's Position on Declaratory Judgment Issues Contained in Complaint, he asks for reconsideration of this Court's adoption of a Report and Recommendation that overruled Plaintiff's objection to the dismissal of his declaratory judgment action. Plaintiff's request consists in its totality to the following:

Pursuant to some of the defendant's answers in discovery it is clear that the declaratory judgment issued challenging the polices of the ODRC must proceed as

argued in the complaint (doc 30) and plaintiff cannot be forced to abandon them now without creating hardship upon all parties.

(ECF No. 147) (citing Compl.).

Although the Federal Rules of Civil Procedure do not explicitly address motions for reconsideration requests, the authority for a district court to hear such motions is found in both the common law and in Rule 54(b) of the Federal Rules of Civil Procedure. *Rodriguez v. Tenn. Laborers Health & Welfare Fund*, 89 Fed. Appx. 949, 959 (6th Cir. 2004). The Court here finds no sufficient reason to reconsider its previous order. Plaintiff simply disagrees with this Court's decision. Thus, the Court **DENIES** Plaintiffs' request for reconsideration. (ECF No. 147.)

In Plaintiff's Request for a Telephone Status Conference on Discovery and Objections, Plaintiff "renews his objection to the Court's attempts to restrict his case exclusively to claims of retaliation." (ECF No. 146 at 1.) Plaintiff further states that "it is a necessity to get subsequent discovery from" third parties to support his dismissed claim. *Id.* The Court's decision denying Plaintiff's request for reconsideration negates any reason to review any discovery requests to support Plaintiff's declaratory judgment action. Consequently, the Court **DENIES** Plaintiff's request for a telephone conference.

B. Defendant's Motion

Defendant requests additional time to file its dispositive motion and offers good cause for the request. *See* Fed. R. Civ. P. 16 (a court may enlarge the period of time to perform an act if the request is made before the expiration of time originally prescribed when good cause is shown). This Court, therefore, **GRANTS** Defendant's motion. Defendant shall file its motion on or before September 20, 2021. No further extensions will be granted.

C. Conclusion

Based on the foregoing, the Court **DENIES** Plaintiff's Motion for a Telephone Conference (ECF No. 146), **DENIES** Plaintiff's Renewed Objection to Magistrate's Position on Declaratory Judgment Issues Contained in Complaint (ECF No. 147), and **GRANTS** Defendant's Motion for an Extension of Time to File Dispositive Motion (ECF No. 148).

IT IS SO ORDERED.

9/7/2021
DATE

s/Edmund A. Sargus, Jr.
EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE