

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

Desean Spraggins,

Plaintiff,

v.

Case No. 2:17-cv-273

Charlotte E. Owens,

Defendant.

OPINION AND ORDER

This is an action brought pursuant to 42 U.S.C. §1983 by plaintiff Desean Spraggins, an Ohio state prison inmate. On April 6, 2017, the magistrate judge issued an order and notice of deficiency, directing plaintiff to pay the filing fee or an application for leave to proceed *in forma pauperis*. After plaintiff filed a deficient motion, see Doc. 3, the magistrate judge issued orders on May 5, 2017, and June 8, 2017, directing plaintiff to cure the deficiency in his motion. On July 28, 2017, the magistrate judge issued a report and recommendation recommending that the case be dismissed pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute. See Doc. 10. On August 7, 2017, plaintiff filed a certified financial statement of his prison account for the previous six months (Doc. 11) and objections to the report and recommendation (Doc. 12).

If a party objects within the allotted time to a report and recommendation, the court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. §636(b)(1); see also Fed. R. Civ. P. 72(b). Upon review, the Court "may accept, reject, or modify, in whole or in part, the findings or

recommendations made by the magistrate judge." 28 U.S.C. §636(b)(1).

As it now appears that plaintiff has corrected the deficiency in his motion by filing a statement of his prison account, the court declines to accept the report and recommendation (Doc. 10) and it is hereby denied. Plaintiff's motion for leave to proceed *in forma pauperis* (Doc. 3) is granted. Plaintiff is permitted to prosecute this action without prepayment of fees or costs, and any judicial officers who render services in this action shall do so as if the costs had been prepaid. 28 U.S.C. §1915(a).

Date: August 18, 2017

s/James L. Graham
James L. Graham
United States District Judge