

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

RICHARD E. GARABRANDT,

Plaintiff,

v.

LINTON D. LEWIS, et al.,

Defendants,

Case No. 2:18-cv-93

CHIEF JUDGE EDMUND A. SARGUS, JR.

Magistrate Judge Chelsey M. Vascura

OPINION AND ORDER

This matter is before the Court on Plaintiff Richard E. Garabrandt's Objection [ECF No. 4] to the United States Magistrate Judge's Order and Notice of Deficiency [ECF No. 2]. In her Order, the Magistrate Judge directed Plaintiff to submit within thirty days a certified copy of his prison trust fund account statement for the six-month period immediately preceding the filing of the case. (Order at 2 [ECF No. 2].) As the Magistrate Judge noted, 28 U.S.C. § 1915(a)(2) requires that Plaintiff make this submission given that he is a prisoner seeking to bring a civil action without prepayment of fees. (*See id.* at 1–2.)

When considering an objection to a magistrate judge's decision on a nondispositive matter, the Court will modify or set aside any part of the decision that is clearly erroneous or contrary to law. 28 U.S.C. § 636(b)(1)(A); Fed. R. Civ. P. 72(a).

In his Objection, Plaintiff argues that he is not a prisoner as defined by 28 U.S.C. § 1915(h) and that, consequently, he need not submit a copy of his trust fund account statement. (*See* Obj. at 1 [ECF No. 4].) Under § 1915(h), a prisoner is "any person incarcerated or detained in any facility who is accused of, convicted of, sentenced for, or adjudicated delinquent for,

violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program.” 28 U.S.C. § 1915(h).

Plaintiff’s assertion that he is not a prisoner is belied by his mailing address, which is the mailing address for the Marion Correctional Institution. (Compl. at PageID 5 [ECF No. 1-2].) And an offender search through the Ohio Department of Rehabilitation and Correction’s website affirms that Plaintiff is incarcerated at the Marion Correctional Institution for violating O.R.C. § 2907.02 (i.e., committing rape). *See* Offender Search, Ohio Dep’t of Rehabilitation & Correction, <https://appgateway.drc.ohio.gov/OffenderSearch/> (search “Richard Garabrandt”).

Plaintiff also argues that 28 U.S.C. § 1915 and 28 U.S.C. § 636(b) do not apply to this case. (*See* Obj. at 1.) The relevance of this argument is unclear. And, in any event, Plaintiff offers no convincing legal basis for the argument, and the Court rejects it.

Because Plaintiff is a prisoner as defined by § 1915(h), and because § 1915(a)(2) mandates that a prisoner seeking to bring a civil action without prepayment of fees must submit a certified copy of his prison trust fund account statement, the Magistrate Judge’s Order directing Plaintiff to submit a copy of his account statement is not clearly erroneous or contrary to law. Plaintiff’s Objection [ECF No. 4] is **OVERRULED**.

IT IS SO ORDERED.

2-12-2018

DATE



EDMUND A. SARGUS, JR.
CHIEF UNITED STATES DISTRICT JUDGE