

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON

RICHARD KIRKLEWSKI,

Plaintiff,

vs.

JOSEPH HALMARTIN HAMILTON,
et al.,

Defendants.

:

:

Case No. 3:07cv193

:

JUDGE WALTER HERBERT RICE

:

DECISION AND ENTRY ADOPTING INITIAL (DOC. #2) AND SUPPLEMENTAL (DOC. #5) REPORTS AND RECOMMENDATIONS OF UNITED STATES MAGISTRATE JUDGE IN THEIR ENTIRETY; PLAINTIFF'S "EX PARTE" EXCEPTION, OBJECTION AND...MOTION TO RECONSIDERATION (DOC. #4) AND PLAINTIFF'S MEMORANDUM (DOC. #6, CONSTRUED AS OBJECTIONS) AND "EX PARTE EXCEPTION, OBJECTION AND MOTION TO RECONSIDERATION" (DOC. #7) OVERRULED; CAPTIONED CAUSE DISMISSED WITHOUT PREJUDICE FOR LACK OF SUBJECT MATTER JURISDICTION AND FAILURE TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED; LEAVE TO APPEAL *IN FORMA PAUPERIS* DENIED; TERMINATION ENTRY

Pursuant to the reasoning and citations of authority set forth by the United States Magistrate Judge in his Initial (Doc. #2) and Supplemental (Doc. #5) Reports and Recommendations, as well as upon a thorough *de novo* review of this Court's file and the applicable law, said Reports and Recommendations are adopted in their entirety. The Plaintiff's filings in opposition to the Reports and Recommendations,

as set forth in the caption above, are, each in their entirety, overruled.

In ruling as aforesaid, this Court makes the following, non-exclusive, observations:

1. The Complaint is not drafted with sufficient specificity, either for this Court to understand what it is that the Plaintiff is claiming either one or more or all of the Defendants did to anyone connected to him or, for that matter, with sufficient specificity to set forth a claim for relief under federal law. Moreover, the Complaint lacks sufficient specificity for this Court to understand whether it possesses jurisdiction by way of diversity of citizenship.

Accordingly, the Plaintiff's Complaint is ordered dismissed, without prejudice, for both lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted.

Given that any appeal from this Court's Order would be objectively frivolous, this Court denies leave to appeal *in forma pauperis*.

The captioned cause is hereby ordered terminated upon the docket records of the United States District Court for the Southern District of Ohio, Western Division, at Dayton.

February 1, 2008

/s/ Walter Herbert Rice

WALTER HERBERT RICE
UNITED STATES DISTRICT JUDGE

Copies to:

Richard Kirklewski, Pro Se

Chief Magistrate Judge Michael R. Merz