

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

BILLY M. SMITH,

Plaintiff,

-v-

**MONTGOMERY COUNTY
SHERIFF'S OFFICE, et al.,**

Defendants.

Case No. C-3:10-cv-448

**Judge Thomas M. Rose
Magistrate Judge Michael R. Merz**

ENTRY AND ORDER OVERRULING SMITH'S OBJECTIONS (Doc. #150) TO THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS REGARDING RELIEF FROM JUDGMENT AND ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS (Doc. #145) REGARDING RELIEF FROM JUDGMENT

Plaintiff Billy M. Smith ("Smith") has filed a Motion for Relief From Judgment. (Doc. #144.) Magistrate Judge Michael R. Merz recommends that Smith's Motion be denied because Smith has not shown excusable neglect or shown that he presented evidence in opposition to Defendants' motions for summary judgment. Also, Smith has not shown that the Defendants would not be prejudiced if his Motion were granted. (Doc. #145.)

As required by 28 U.S.C. §636(b) and Federal Rules of Civil Procedure Rule 72(b), the District Judge has made a de novo review of the record in this case. Upon said review, the Court finds that Smith's Objections to the Magistrate Judge's Report and Recommendations regarding his Motion for Relief From Judgment are not well-taken, and they are hereby OVERRULED. The Magistrate Judge's Report and Recommendations regarding Smith's Motion for Relief From Judgment is adopted in its entirety. Smith's Motion for Relief From Judgment is DENIED.

DONE and ORDERED in Dayton, Ohio, this Twenty-Eighth Day of February, 2013.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE

Copies furnished to:

Counsel of Record
Billy M. Smith at his last address of record