

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

|                                      |   |                      |
|--------------------------------------|---|----------------------|
| VIRGIL VADUVA,                       | : | Case No. 3:17-cv-41  |
|                                      | : |                      |
| Plaintiff,                           | : | Judge Thomas M. Rose |
|                                      | : |                      |
| v.                                   | : |                      |
|                                      | : |                      |
| CITY OF XENIA, OHIO, <i>et al.</i> , | : |                      |
|                                      | : |                      |
| Defendants.                          | : |                      |

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**ENTRY AND ORDER OVERRULING OBJECTIONS (DOCS. 23, 24);  
ADOPTING REPORT AND RECOMMENDATION (DOC. 22); GRANTING  
DEFENDANT CAUP'S MOTION FOR JUDGMENT ON THE PLEADINGS  
(DOC. 12); GRANTING THE MOTION FOR JUDGMENT ON THE  
PLEADINGS (DOC. 13) FILED BY DEFENDANTS THE CITY OF XENIA,  
ENGLE, LONG, SMITH, MILLS, BAYLESS, OSBURN, AND PAZYNSKI; AND  
DISMISSING PLAINTIFF'S OFFICIAL CAPACITY CLAIMS**

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This case is before the Court on the Objections (Docs. 23, 24) filed by Plaintiff Virgil Vaduva ("Plaintiff") and Defendant the City of Xenia, Ohio ("City of Xenia") to the Magistrate Judge's Report and Recommendation ("Report") (Doc. 22). In the Report, Magistrate Judge Michael J. Newman recommended that (1) Defendant John Caupp's Motion for Judgment on the Pleadings (Doc. 12) be granted; (2) the Motion for Partial Judgment on the Pleadings (Doc. 13) filed by Defendants the City of Xenia, Michael Engle, Joshua Long, Wesley Smith, Jeanne Mills, Marsha Bayless, Jeffrey Osburn, and David Pazynski be granted; and (3) Plaintiff's official capacity claims be dismissed, but this case remain pending with regard to his claims against the City of Xenia. The City of Xenia and Plaintiff each filed Objections (Docs. 23 & 24, respectively) to the Report.

Plaintiff filed a Response (Doc. 26) to the City of Xenia's Objections; and Defendants filed Responses (Docs. 25, 27) to Plaintiff's Objections (Defendant Caupp filed a separate Response (Doc. 27) from that of the other Defendants). This matter is therefore ripe for the Court's review.

As required by 28 U.S.C. § 636(b) and Federal Rule of Civil Procedure 72(b), the Court has made a *de novo* review of the record in this case. Upon said review, the Court finds that the Objections (Docs. 23, 24) filed by Plaintiff and the City of Xenia are not well-taken and are hereby **OVERRULED**. The Court **ADOPTS** the Report (Doc. 22) in its entirety and, accordingly, rules as follows:

(1) Defendant Caupp's Motion for Judgment on the Pleadings (Doc. 12) is **GRANTED**;

(2) The Motion for Partial Judgment on the Pleadings (Doc. 13) filed by Defendants the City of Xenia, Michael Engle, Joshua Long, Wesley Smith, Jeanne Mills, Marsha Bayless, Jeffrey Osburn, and David Pazynski is **GRANTED**; and

(3) Plaintiff's official capacity claims are **DISMISSED**, but this case remains pending with regard to his claims against the City of Xenia.

**DONE** and **ORDERED** in Dayton, Ohio, this Tuesday, December 19, 2017.

s/Thomas M. Rose

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THOMAS M. ROSE  
UNITED STATES DISTRICT JUDGE