

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

NUPONU GORNELEH,	:	
Plaintiff,		
v.	:	Case No. 3:17-cv-181
THE CITY OF KETTERING, <i>et al.</i> ,		JUDGE WALTER H. RICE
Defendants.	:	

DECISION AND ENTRY ADOPTING UNITED STATES MAGISTRATE JUDGE'S REPORT AND RECOMMENDATIONS (DOC. #36); OVERRULING PLAINTIFF'S OBJECTIONS THERETO (DOC. #37); SUSTAINING MOTION TO DISMISS OF DEFENDANTS HON. FREDERICK DRESSEL AND HON. JAMES F. LONG (DOC. #9), DEFENDANT CHRISTOPHER T. HERMAN'S MOTION TO DISMISS (DOC. #11), DEFENDANTS DON PATTERSON, MATT BURIAN AND THE CITY OF KETTERING, OHIO'S MOTION TO DISMISS (DOC. #14), MOTION TO DISMISS OF DEFENDANT DENNIS FALLANG (DOC. #18), AND MOTION OF DEFENDANT ALL PRO TOWING FOR JUDGMENT ON THE PLEADINGS (DOC. #33); OVERRULING AS MOOT PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT AGAINST DEFENDANT ALL PRO TOWING (DOC. #17); JUDGMENT TO ENTER IN FAVOR OF DEFENDANTS AND AGAINST PLAINTIFF; TERMINATION ENTRY

Based on the reasoning and citations of authority set forth by United States Magistrate Judge Michael J. Newman in his Report and Recommendations, Doc. #36, as well as upon a thorough *de novo* review of this Court's file and the applicable law, the Court ADOPTS said judicial filing in its entirety.

In Plaintiff's Objections to the Report and Recommendations, Doc. #37, he urges the Court to reject that judicial filing on two grounds: (1) "the defense had already stated wrongdoing on at least 3 other occasions[,] as well as the culpability of the other Defendants on 2 of those occasions[,] [a]s revealed in their last statements to the IRS and their cases regarding Prosecutor Nolan and the DNC as well—[a]ll of which contradicts their statement"; and (2) "RICO applies as by the Ohio Supreme Court prior [sic]." Doc. #37, PageID#234.

The Court must determine *de novo* any part of the Magistrate Judge's Report and Recommendations that have been properly objected to. Fed. R. Civ. P. 72(b)(3). With respect to the first Objection, Plaintiff fails to identify the specific nature of Defendants' alleged admissions of wrongdoing, and he makes no effort to explain his references regarding alleged statements "to the IRS and cases regarding Prosecutor Nolan and the DNC." In any event, even if Defendants had admitted to certain wrongdoing, it does not change the fact that, as Magistrate Judge Newman properly found, Plaintiff's Amended Complaint fails to state a claim upon which relief may be granted. Even liberally construed, Plaintiff's Amended Complaint pleading does not contain sufficient factual allegations to state any claim for relief that is plausible on its face.

With respect to the second Objection, the Court simply notes that the Amended Complaint contains no mention of RICO; nor does it contain any factual allegations to support such a claim. For these reasons, Plaintiff's Objections to the Report and Recommendations, Doc. #37, are OVERRULED.

For the reasons set forth by Magistrate Judge Newman in his Report and Recommendations, the Court SUSTAINS the following motions:


- Motion to Dismiss of Defendants Hon. Frederick Dressel and Hon. James F. Long (Doc. #9);
- Defendant Christopher T. Herman's Motion to Dismiss (Doc. #11);
- Defendants Don Patterson, Matt Burian and The City of Kettering, Ohio's Motion to Dismiss (Doc. #14);
- Motion to Dismiss of Defendant Dennis Fallang (Doc. #18); and
- Motion of Defendant All Pro Towing for Judgment on the Pleadings (Doc. #33)

Because Defendants Dressel and Long are entitled to judicial immunity, and further amendment would be futile, Plaintiff's claims against them are DISMISSED WITH PREJUDICE. Plaintiff's claims against all other Defendants are DISMISSED WITHOUT PREJUDICE. The Court OVERRULES AS MOOT Plaintiff's Motion for Summary Judgment against Defendant All Pro Towing (Doc. #17).

Judgment shall be entered in favor of Defendants and against Plaintiff.

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

Date: October 26, 2017



WALTER H. RICE
UNITED STATES DISTRICT JUDGE