

CLERK'S OFFICE U.S. DIST. COURT
AT ROANOKE, VA
FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

JAN 13 2011

JULIA C. [Signature] CLERK
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LEVI SPRINGER,
Plaintiff,

)
)

Civil Action No. 7:10cv00256

v.

)

ORDER ADOPTING REPORT
AND RECOMMENDATION

OFFICER M. DEEL, et al.,
Defendants.

)
)

By: Samuel G. Wilson
United States District Judge

This matter is before the court on plaintiff Levi Springer's motions for a temporary restraining order and preliminary injunctive relief (Docket Nos. 5 and 8). The court referred the matter to United States Magistrate Judge Michael F. Urbanski, pursuant to 28 U.S.C. § 636(b)(1)(B), for a Report and Recommendation. The Magistrate Judge subsequently filed a report, finding no basis to grant Springer's motions and recommending that the court deny them. Springer filed objections within the fourteen days allotted under § 636(b)(1), largely reiterating the arguments made in his pleadings. Having reviewed the Report and Recommendation, the objections thereto, and pertinent portions of the record de novo in accordance with § 636(b)(1), the court agrees with the Magistrate Judge's recommendation. Additionally, the court finds that Springer's failure to file this action until nearly nine months had elapsed since the latest alleged assault is a strong indication that Springer himself does not feel he faces "actual and imminent" harm in the absence of relief. See Direx Israel, Ltd. v. Breakthrough Med. Corp., 952 F.2d 802, 812 (4th Cir. 1991).

Accordingly, it is hereby **ORDERED** and **ADJUDGED** that Springer's objections to the Magistrate Judge's Report and Recommendation are **OVERRULED**, and Springer's motions for a temporary restraining order and preliminary injunctive relief are **DENIED**.

The Clerk of the Court is directed to send a copy of this Order to the plaintiff.

ENTER: This 13th day of January, 2011.

[Signature]
United States District Judge