NOT RECOMMENDED FOR FULL-TEXT PUBLICATION

No. 17-3787

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

FILED
Mar 21, 2018
DEBORAH S. HUNT, Clerk

RAY COBIA, Plaintiff-Appellant, v. STATE OF OHIO, et al., Defendants-Appellees.	)	ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO

ORDER

Before: McKEAGUE, KETHLEDGE, and THAPAR, Circuit Judges.

Ray Cobia, an Ohio resident proceeding pro se, appeals the district court's order dismissing his 42 U.S.C. § 1983 civil rights action. He has filed a motion requesting oral argument. This case has been referred to a panel of the court that, upon examination, unanimously agrees that oral argument is not needed. *See* Fed. R. App. P. 34(a).

In 2013, an Ohio jury found Cobia guilty of sexual battery, impersonating a police officer, and child enticement. The Ohio Court of Appeals overturned Cobia's conviction because the Ohio Supreme Court had determined, while Cobia's appeal was pending, that Ohio's child-enticement statute was unconstitutional and because the trial court had improperly allowed for the admission of testimony pertaining to an unrelated 2004 sexual-misconduct incident involving Cobia. *See State v. Cobia*, No. C-140058, 2015 WL 408276, at *5 (Ohio Ct. App. Jan. 30, 2015).

Cobia then brought suit against the State of Ohio, the Hamilton County Prosecutor's Office ("HCPO"), and the Cincinnati Police Department ("CPD"), raising claims of malicious prosecution, defamation of character, and wrongful imprisonment. He alleged generally that the charges underlying his 2013 conviction were false and that the CPD and HCPO pursued his case despite knowing that the charges against him were unfounded. He sought, in total, $5,975,000.00 in damages.

The CPD filed a motion for judgment on the pleadings, and the HCPO and the State of Ohio filed separate motions to dismiss. The district court referred the defendants' motions to a magistrate judge, who prepared a report recommending dismissal of the case. The magistrate judge determined that Cobia's claims against the CPD were subject to dismissal because Cobia had not identified a custom or policy of the City of Cincinnati that had caused his injuries, that his claims against the State of Ohio were subject to dismissal because they were barred by the Eleventh Amendment, and that his claims against the HCPO were subject to dismissal because the HCPO was entitled to prosecutorial immunity. Over Cobia's objections, the district court adopted the report and dismissed the case.

On appeal, Cobia appears to concede that there is "no case law to support" his appeal but that this court should nonetheless remand for further proceedings in light of the particular facts of his case and to avoid injustice.

We consider issues raised in a "perfunctory manner, unaccompanied by some effort at developed argumentation," to be forfeited. *Langley v. DaimlerChrysler Corp.*, 502 F.3d 475, 483 (6th Cir. 2007) (quoting *Indeck Energy Servs. v. Consumers Energy Co.*, 250 F.3d 972, 979 (6th Cir. 2000)). The requirement for developed argumentation applies to pro se litigants. *See Geboy v. Brigano*, 489 F.3d 752, 767 (6th Cir. 2007).

Cobia has forfeited review of the district court's judgment by failing to make any developed argumentation on appeal. Cobia has not identified any errors in the district court's reasoning and, in fact, appears to acknowledge that "there is no case law on record . . . to aide [sic] in the arguing of the plaintiff's case." Instead, he makes a general appeal to equity, contending that "[t]he excusing of this case will continue to allow the defendant to doctor up and

misuse the trust of the State of Ohio." Given these circumstances, he has forfeited his challenge to the district court's judgment. *See id.*

Accordingly, we **AFFIRM** the district court's judgment and **DENY** Cobia's remaining motion as moot.

ENTERED BY ORDER OF THE COURT

Deborah S. Hunt, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

RAY COBIA,	:	Case No. 1:16-cv-727
	:	
Plaintiff,	:	Judge Timothy S. Black
vs.	:	Magistrate Judge Stephanie K. Bowman
	:	
STATE OF OHIO, *et al.*,	:	
	:	
Defendants.	:	

DECISION AND ENTRY:
(1) ADOPTING THE REPORT AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE (Doc. 42);
(2) OVERRULING PLAINTIFF'S OBJECTIONS TO THE REPORT AND RECOMMENDATION (Doc. 44);
(3) GRANTING THE CITY OF CINCINNATI POLICE DEPARTMENT'S MOTION FOR JUDGMENT ON THE PLEADINGS (Doc. 17);
(4) GRANTING THE STATE OF OHIO'S MOTION TO DISMISS (Doc. 20);
(5) GRANTING THE HAMILTON COUNTY PROSECUTOR'S OFFICE'S MOTION TO DISMISS (Doc. 27);
(6) DENYING PLAINTIFF'S MOTION FOR LEAVE TO FILE A SUR-REPLY (Doc. 45);
(7) OVERRULING PLAINTIFF'S OBJECTION TO THE MAGISTRATE JUDGE'S ORDER (Doc. 41); and
(8) TERMINATING THIS CASE FROM THE DOCKET

I. INTRODUCTION

This case is before the Court pursuant to the Order of General Reference in the United States District Court for the Southern District of Ohio Western Division to United States Magistrate Judge Stephanie K. Bowman. Pursuant to such reference, the Magistrate Judge reviewed the pleadings and memoranda filed with this Court, and on May 22, 2017, submitted a Report and Recommendation (Doc. 42) which recommended that this Court grant the City of Cincinnati Police Department's ("City") motion for

judgment on the pleadings (Doc. 17); grant the State of Ohio's ("State") motion to dismiss (Doc. 20); and grant the motion to dismiss of the Hamilton County Prosecutor's Office ("HCPO") (Doc. 27). Plaintiff timely filed objections. (Doc. 44). Concurrent with his objections, Plaintiff filed a motion requesting leave to file a sur-reply in opposition to the City's motion for judgment on the pleadings and the State's motion to dismiss. (Doc. 45).

Also before the Court is the Magistrate's Order ("Order") (Doc. 40) overruling Plaintiff's motion to appoint legal counsel, as well as Plaintiff's objection to the Order (Doc. 41).

II. ANALYSIS

A. The Magistrate Judge's Report and Recommendation

In the Report and Recommendation (Doc. 42), the Magistrate Judge Recommended that the Court (1) grant the City's motion for judgment on the pleadings because Plaintiff failed to state a viable claim against the City; (2) grant the State's motion to dismiss because the State is immune from this lawsuit, Plaintiff failed to serve the state, and Plaintiff failed to state a viable claim against the State; and (3) grant the HCPO's motion to dismiss because it is immune from this lawsuit.

Plaintiff's objections to the Report and Recommendation merely restate the facts alleged in the Complaint. (*See* Doc. 44). The objections do not offer any legal argument as to the viability of Plaintiff's claims against any Defendant. (*Id.*)

As required by 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), the Court has reviewed the comprehensive findings of the Magistrate Judge and considered *de novo* all

of the filings in this matter. Upon consideration of the foregoing, the Court does determine that such Report and Recommendation should be and is hereby adopted in its entirety and Plaintiff's objections to the Report and Recommendation are overruled.

B. Plaintiff's Motion for Leave to file a Sur-Reply

Concurrent with the objections, Plaintiff filed a motion requesting leave to file a sur-reply, which appears to request permission to file additional memoranda in opposition to the City's motion for judgment on the pleadings and the State's motion to dismiss. (Doc. 45). Plaintiff's motion for leave—which was not filed until several months after the briefing periods for both motions had concluded and the Magistrate Judge already issued the Report and Recommendation—is not well-taken. This Court's Local Rules provide for motions to be decided upon consideration of the motion, an opposition, and a reply. *See* S.D. Ohio Civ. R. 7.2(a)(2). Additional memoranda are prohibited absent a showing of "good cause." *Id.* Plaintiff has not set forth any argument as to why good cause exists for a sur-reply to any pending motion. Plaintiff's motion for leave to file a sur-reply (Doc. 45) is therefore denied.

C. The Magistrate Judge's Order

On February 8, 2017, the Magistrate Judge entered the Order (Doc. 40) which denied Plaintiff's motion to appoint counsel (Doc. 5). The Order noted that civil litigants do not have a constitutional right to counsel at government expense. (Doc. 40 at 1). The Order reasoned that Plaintiff has presented legible and articulate claims in this case, and accordingly has failed to demonstrate the type of exceptional circumstances that would justify the appointment of free counsel for a *pro se* civil litigant. (*Id.*)

On February 28, 2017, Plaintiff filed an objection to the Order. (Doc. 41). Plaintiff's objection argues that Plaintiff is at a disadvantage in this lawsuit because he is not a licensed attorney. (*Id.* at 1). The objection also argues that Plaintiff should be provided an attorney so that he is not accused of trying to practice law without a license. (*Id.*)

Because the Order is not dispositive of Plaintiff's claims, this Court's review is governed by Fed. R. Civ. P. 72(a), which allows a district judge to set aside or modify any part of a magistrate judge's non-dispositive order that is "clearly erroneous" or "contrary to law." The "clearly erroneous" standard applies only to factual findings made by the Magistrate Judge, while legal conclusions are reviewed under the more lenient "contrary to law" standard. *United States SEC v. Sierra Brokerage Servs.*, No. 2:03-cv-326, 2005 U.S. Dist. LEXIS 23866 at * 11 (S.D. Ohio Oct. 18, 2005) (citation omitted). A finding is "clearly erroneous" when the reviewing court is left with the definite and firm conviction that a mistake has been made. *Id.* at ** 11-12 (citations omitted). A decision is "contrary to law" when the magistrate judge has "misinterpreted or misapplied" applicable law. *Id.* at * 12 (citations omitted).

Plaintiff's objection to the Order is not well-taken for two reasons. First, to the extent Plaintiff is concerned about engaging in the unauthorized practice of law, the Court recognizes Plaintiff's right to appear *pro se* in this civil action. *See* 28 U.S.C. § 1654.

Second, Plaintiff's objection does not set forth any argument indicating that the Order constitutes a mistake, or that the Magistrate Judge misinterpreted or misapplied

applicable law. Upon review, the Court cannot conclude that the Order was clearly erroneous or contrary to law, and Plaintiff's objection (Doc. 41) is overruled. *See* Fed. R. Civ. P. 72(a).

III. CONCLUSION

Accordingly, for the foregoing reasons:

1. The Report and Recommendation (Doc. 42) is **ADOPTED**;
2. Plaintiff's objections to the Report and Recommendation (Doc. 44) are **OVERRULED**;
3. The City's motion for judgment on the pleadings (Doc. 17) is **GRANTED**;
4. The State of Ohio's motion to dismiss (Doc. 20) is **GRANTED**;
5. The Hamilton County Prosecutor's Office's motion to dismiss (Doc. 27) is **GRANTED;**
6. Plaintiff's motion for leave to file a sur-reply (Doc. 45) is **DENIED;**
7. Plaintiff's objection to the Magistrate Judge's Order (Doc. 41) is **OVERRULED**; and
8. The Clerk shall enter judgment accordingly, whereupon this case is **TERMINATED** on the docket of this Court.

IT IS SO ORDERED.

Date: 7/13/17

Timothy S. Black
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

RAY COBIA,

Plaintiff,

vs.

STATE OF OHIO, *et al.*,

Defendants.

Civil Action No. 1:16-cv-727

Black, J.
Bowman, M.J

REPORT AND RECOMMENDATION

This civil action is now before the Court on Defendants' motion for judgment on the pleadings and motions to dismiss (Docs. 17, 20, 27) and the parties' responsive memoranda. The motions will be addressed in turn.

I. Background and Facts

Plaintiff Ray Cobia was charged, tried and convicted by a jury for sexually related offenses that occurred in 2004 and 2013. In both instances, he committed a sexual offense against a female victim and then attempted to intimidate the victim into not reporting the offense by claiming he was a law enforcement officer. The Ohio First District Court of Appeals overturned the 2013 conviction because the trial judge permitted the 2004 victim to testify in the 2013 case. Cobia then filed suit against the State of Ohio, Hamilton County Ohio Prosecutor's Office, and the City of Cincinnati raising claims of malicious prosecution, defamation of character, and wrongful imprisonment resulting from his 2004 and 2013 prosecutions.

Now, Plaintiff filed the instant action challenging the validity of his state court convictions and seeking monetary damages for his alleged wrongful imprisonment.

Upon initial screening of this action pursuant to §1915, the undersigned issued a Report and Recommendation ("R&R") that the matter be dismissed for failure to state a claim upon which relief may be granted. (Doc. 4). The District Judge, however, denied the R&R and granted Plaintiff's motion to amend the complaint to add more detailed information relating to the reversal of his 2013 conviction. (Doc. 8). Thereafter, Plaintiff filed his amended complaint. (Doc. 9).

Plaintiff's amended complaint purports to bring claims against the State of Ohio related to incidents with the Cincinnati Police Department and criminal charges prosecuted against him by the Hamilton County Prosecutor's Office. (See Doc. 9 at 2). Plaintiff alleges that Asia Anderson made a false allegation of rape against him. *Id.* He further alleges that the Cincinnati Police Department investigated the allegation and "believed" the claim to be "untrue." *Id.* He alleges that, despite believing the claim to be untrue, the Police Department forwarded the investigation to the Hamilton County Prosecutor's Office. *Id.* The Prosecutor's Office prosecuted the case, and allegedly included charges that were "unconstitutional and unsupported." *Id.* at 2-3.

Defendants now seek dismissal of Plaintiff's claims against them. The motions will be addressed in turn.

II. Analysis

A. City of Cincinnati's Motion for Judgment on the Pleadings (Doc. 17)

To survive a motion for judgment on the pleadings, a complaint must "state a claim to relief that is plausible on its face." *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007). The Court must construe the complaint in the light most favorable to the plaintiff and accept all well-pleaded material allegations in the complaint as true. *Roth*

Steel Products v. Sharon Steel Corporation, 705 F.2d 134, 155 (6th Cir. 1983). However, the court need not accept as true legal conclusions or unwarranted factual inferences. *Lewis v. ACB Business Seru., Inc.*, 135 F.3d 389, 405 (6th Cir. 1988); *Morgan v. Church's Fried Chicken*, 829 F.2d 10, 12 (6th Cir. 1987). It is not enough that the complaint contains "an unadorned, the defendant-unlawfully harmed-me accusation." *Ashcroft v. Igbal*, 556 U.S. 662, 678 (2009). Conclusory statements which recite a cause of action are not sufficient. *Id.* The complaint must contain more than allegations the defendant may have possibly acted unlawfully. Even allegations that are consistent with a defendant's liability are insufficient. *Id.* Instead, the complaint must "contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Id. See also Corie v. Alcoa Wheel & Forget Products*, 577 F.3d 625 (6th Cir. 2009). If it is not plausible that the factual allegations will lead to the requested relief, the defendant is entitled to judgment as a matter of law.

Here, Defendant City of Cincinnati Police Department (hereinafter the "City") asserts that it is entitled to judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12(c) because the Amended Complaint does not allege facts sufficient to plausibly lead to liability for the City. The undersigned agrees.

As noted above, Plaintiff's civil rights complaint against the City includes claims for malicious prosecution, defamation of character, and wrongful imprisonment resulting from his 2004 and 2013 prosecutions, and seeking punitive damages and lost wages.

In order to maintain an action under 42 U.S.C. § 1983, plaintiff must allege that the person engaging in the offensive conduct was acting under color of state law and that this conduct deprived plaintiff of some right secured by the Constitution or laws of

the United States. *Graham v. National Collegiate Athletic Ass'n*, 804 F.2d 953, 957 (6th Cir.1986) (citing *Parratt v. Taylor*, 451 U.S. 527, 535, 101 S.Ct. 1908, 68 L.Ed.2d 420 (1981), overruled in part on other grounds, *Daniels v. Williams*, 474 U.S. 327, 106 S.Ct. 662, 88 L.Ed.2d 662 (1986)).

A municipality can be found liable under § 1983 only where the municipality itself causes the constitutional violation at issue. *Monell v. Dep't of Soc. Servs. of City of N.Y.*, 436 U.S. 658, 691 (1978). Only where the action of the municipality reflects a "deliberate" or "conscious" choice by a municipality, i.e., a "policy," can a city be liable for such a failure under § 1983. *City of Canton v. Harris*, 489 U.S. 378, 389 (1989). Failure to train, supervise, investigate or discipline municipal employees, which constitutes deliberate indifference, can serve as the basis for imposing liability on a municipal employer for the constitutional torts committed by its employees. *Id.* As such, governmental entities cannot be held responsible for a constitutional deprivation unless there is a direct causal link between a municipal policy or custom and the alleged violation of constitutional rights. *See Monell,* 436 U.S. at 692 ; *see also Petty v. Cnty. of Franklin, Ohio*, 478 F.3d 341, 344 (6th Cir.2007). To state a claim for relief, the plaintiff must "identify the policy, connect the policy to the [municipal or local governmental entity] ... and show that the particular injury was incurred because of the execution of that policy." *Aladimi v. Hamitlon County Justice Center*, 2012 WL 292587, at *7 (quoting *Graham ex rel. Estate of Graham v. Cnty. of Washtenaw,* 358 F.3d 377, 383 (6th Cir. 2004)). No such allegations against the City appear in plaintiff's amended complaint. As noted by Defendants, Plaintiff has not alleged any facts that the City itself has engaged in any unconstitutional policy or custom that injured him in either of his arrests or

prosecutions. Accordingly, the City is entitled to judgment as a matter of law on Plaintiff's 1983 claim.

B. State of Ohio's Motion to Dismiss[1] (Doc. 20)

Plaintiff's amended complaint fails to make any allegations against the State of Ohio. Plaintiff purports to bring malicious prosecution, defamation, and wrongful imprisonment claims against the State. *Id.* at 3. Plaintiff requests nearly $6 million in damages. *Id.* It is unclear why Plaintiff included the State of Ohio as a Defendant in this case. However, the State is absolutely immune from this suit, Plaintiff has failed to effectuate service on the State of Ohio, and Plaintiff has failed to state a claim for relief.

The complaint against the State of Ohio must be dismissed because the State of Ohio is immune from suit in this federal court. Absent an express waiver, the Eleventh Amendment to the United States Constitution bars suit against a State or one of its agencies or departments in federal court regardless of the nature of the relief sought. *Seminole Tribe of Florida v. Florida*, 517 U.S. 44, 58 (1996); *Pennhurst State School v. Halderman*, 465 U.S. 89, 100 (1984); *Alabama v. Pugh*, 438 U.S. 781, 782 (1978); *Edelman v. Jordan*, 415 U.S. 651, 663 (1974). The exceptions to the Eleventh Amendment bar prohibiting lawsuits against a state in federal court do not apply in this case. The State of Ohio has neither constitutionally nor statutorily waived its Eleventh Amendment rights. *See Mixon v. State of Ohio*, 193 F.3d 389, 397 (6th Cir. 1999); *State of Ohio v. Madeline Marie Nursing Homes,* 694 F.2d 449, 460 (6th Cir. 1982); *Ohio*

[1] On September 22, 2016, this Court granted Plaintiff's motion to amend the complaint, and ordered Plaintiff to file an amended complaint. (Doc. 8). On the same day, Plaintiff filed his amended complaint and summons was issued to the Defendants. (Docs. 9, 10). However, although Plaintiff named the State of Ohio as a Defendant, he had summons issued to the State at the Hamilton County Prosecutor's Office. (*See* Doc. 12). Although the State of Ohio does not maintain an office at the Hamilton County Prosecutor's Office, it appears that someone at the Prosecutor's Office incorrectly accepted service on behalf of the State. *Id.*

Inns, Inc. v. Nye, 542 F.2d 673, 681 (6th Cir. 1976). Nor has plaintiff sued a state official seeking prospective injunctive relief against future constitutional violations. *Ex Parte Young*, 209 U.S. 123 (1908). In addition, Congress has not "explicitly and by clear language" expressed its intent to "abrogate the Eleventh Amendment immunity of the States" when enacting Section 1983. *See Quern v. Jordan*, 440 U.S. 332, 341–43, 345 (1979). Therefore, the State of Ohio is immune from suit in this case and plaintiff's claims against the State of Ohio should be dismissed.

C. *Hamilton County Prosecutor's Office Motion to Dismiss* (Doc. 27)

Also before the Court is Defendant Hamilton County Prosecutor's Office ("HCPO") motion to dismissed Plaintiff's amended complaint pursuant to Fed.R. Civ. P. 12(b)(6).[2] HCPO asserts that it is immune from Plaintiff's suit under both Federal absolute immunity and state law immunity under O.R.C. § 2744.03 (A)(7). The undersigned agrees that Plaintiff's claims against the Hamilton County Prosecutor's Office must also be dismissed because plaintiff seeks relief from a defendant who is immune from such relief.

"Prosecutors are entitled to absolute immunity for conduct 'intimately associated with the judicial phase of the criminal process.'" *Manetta v. Macomb County Enforcement Team*, 141 F.3d 270, 274 (6th Cir.1998) (*quoting Imbler v. Pachtman*, 424

[2] In its reply memorandum, HCPO noted that its motion was incorrectly labeled as a Motion to Dismiss. Doc. 27. In this regard, HCPO contends that because an answer had already been filed by County Defendant, the motion should have been filed as a Motion for Judgment on the pleadings under Fed. R. Civ. P. 12(c). However, an incorrect reference to the Rules is not fatal where the substance of the motion is plain. *See Wanger v. Higgins*, 754 F.2d 186, 188 (6th Cir. 1985). (Motion, though improperly referred to as one for failure to state a claim upon which relief could be granted, was actually for judgment on the pleadings, and that incorrect reference was not fatal, as substance of the motion was plain and no surprise or other prejudice to plaintiff was claimed). Such is the case here. Moreover, the same legal standard applies when deciding motions pursuant to Rule 12(b)(6) for failure to state a claim or Rule 12(c) for judgment on the pleadings. Fed.R.Civ.P. 12(b)(6) and (c); *Sensations, Inc., v. City of Grand Rapids*, 526 F.3d 291, 295 (6th Cir.2008); *Tucker v. Middleburg–Legacy Place, LLC*, 539 F.3d 545, 549–50 (6th Cir.2008).

U.S. 409, 430, 96 S.Ct. 984, 47 L.Ed.2d 128 (1976)). This includes a county prosecutor's initiation of a prosecution and presentation of the State's case at trial. *Imbler*, 424 U.S. at 431. *See also Jones v. Shankland*, 800 F.2d 77, 80 (6th Cir.1986). A prosecutor's initiation and presentation of a case to a grand jury falls within the traditional functions of the prosecutor and is shielded by absolute immunity. *Grant v. Hollenbach*, 870 F.2d 1135, 1139 (6th Cir.1989). Courts have consistently recognized that even the knowing presentation of false testimony to a grand jury or a trial jury are actions protected by absolute immunity. *See Spurlock v. Thompson*, 330 F.3d 791, 797–98 (6th Cir.2004). *See also Imbler*, 424 U.S. at 413, 430; *Buckley v. Fitzsimmons*, 509 U.S. 259, 267 n. 3, 113 S.Ct. 2606, 125 L.Ed.2d 209 (1993). Such "absolute prosecutorial immunity is not defeated by a showing that a prosecutor acted wrongfully or even maliciously." *Lomaz v. Hennosy*, 151 F.3d 493, 498 n. 7 (6th Cir.1998).

Here, Plaintiff's complaint indicates that the prosecutor was performing his official role in initiating and prosecuting criminal charges. Accordingly, HCPO is immune from suit.

D. State law claims

Finally, to the extent plaintiff seeks to raise state law claims (including but not limited to defamation, wrongful imprisonment, malicious prosecution) pendent jurisdiction should not be exercised to consider the state-law claims because plaintiff has failed to state a viable federal claim. *See United States Mine Workers v. Gibbs*, 383 U.S. 715, 86 S.Ct. 1130, 16 L.Ed.2d 218 (1966); see also *Brooks v. Rothe*, 577 F.3d 701, 709 (6th Cir.2009) (*quoting Wojnicz v. Davis*, 80 F. App'x 382, 384–85 (6th

Cir.2003)) ("If the federal claims are all dismissed before trial, the state claims generally should be dismissed as well").

IV. Conclusion

In light of the foregoing, it is therefore **RECOMMENDED** that: Defendants' motion for judgment on the pleadings (Doc. 17) and Defendants' motions to dismiss (Docs. 20, 27) be **GRANTED** and this matter terminated from the active docket of the Court.

s/Stephanie K. Bowman
Stephanie K. Bowman
United States Magistrate Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

RAY COBIA,

Plaintiff,

vs.

STATE OF OHIO, *et al.*,

Defendants.

Civil Action No. 1:16-cv-727

Black, J.
Bowman, M.J

NOTICE

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to this Report & Recommendation ("R&R") within **FOURTEEN (14) DAYS** after being served with a copy thereof. That period may be extended further by the Court on timely motion by either side for an extension of time. All objections shall specify the portion(s) of the R&R objected to, and shall be accompanied by a memorandum of law in support of the objections. A party shall respond to an opponent's objections within **FOURTEEN DAYS** after being served with a copy of those objections. Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn,* 474 U.S. 140 (1985); *United States v. Walters,* 638 F.2d 947 (6th Cir. 1981).