

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

Nicholas K. Meriwether,	:	
	:	Case No. 1:18-cv-753
Plaintiff,	:	
	:	Judge Susan J. Dlott
v.	:	
	:	Order Adopting Report and
The Trustees of Shawnee State	:	Recommendation
University, <i>et al.</i> ,	:	
	:	
Defendants.	:	

This case involves the complicated overlap of issues concerning transgender identity, civility in public discourse, academic freedom, and the First Amendment rights to free speech and free exercise of religion. Plaintiff Nicholas K. Meriwether, a philosophy professor at Shawnee State University, received a written warning from the university for violating its nondiscrimination policies because he had refused to address a transgender student using the student's preferred gender identity title and pronouns. Instead, he had referred to the transgender student by the student's last name only, while he addressed other students by the title "Mr." or "Ms." followed by their last names. Meriwether grieved the discipline, but the grievance was denied. Thereafter, Meriwether filed this suit against the Trustees of Shawnee State University and several Shawnee State University officials (collectively, "the Shawnee State Defendants") for violating his constitutional rights. Meriwether purported to state nine claims in his First Amended Verified Complaint: (1) retaliation in violation of the First Amendment right to free speech; (2) content and viewpoint discrimination in violation of the First Amendment right to free speech; (3) compelled speech in violation of the First Amendment right to free speech; (4) violation of the First Amendment right to free exercise of religion; (5) violation of the right to

be free from unconstitutional conditions; (6) violation of the Due Process Clause; (7) violation of the Equal Protection Clause; (8) violation of the rights of conscience and free exercise of religion under the Ohio Constitution; and (9) breach of contract. (Doc. 31.) He sought declaratory and injunctive relief against the enforcement of Shawnee State's non-discrimination policies and the removal of the discipline against him. (*Id.*)

The Shawnee State Defendants and Intervenor-Defendants Jane Doe and Sexuality and Gender Acceptance moved to dismiss the First Amended Verified Complaint. (Docs. 36, 44.) Subsequently, Magistrate Judge Karen L. Litkovitz issued a comprehensive Report and Recommendation analyzing each of the nine purported causes of action and the asserted bases for dismissal. (Doc. 49.) She recommended dismissing the federal claims (claims 1–7) for failure to state a claim upon which relief can be granted, and she recommended declining to exercise supplemental jurisdiction over the state claims (claims 8–9). (*Id.*) Meriwether then timely filed Objections to the Report and Recommendation, to which the Shawnee State Defendants and the Intervenor-Defendants responded. (Docs. 53, 57, 58.)

A district judge must conduct a de novo review of a magistrate judge's recommendation on a dispositive motion pursuant to Rule 72(b) of the Federal Rules of Civil Procedure. *Baker v. Peterson*, 67 F. App'x 308, 310 (6th Cir. 2003). This Court has reviewed the Report and Recommendation, analyzed the arguments made in Meriwether's Objections and in the Shawnee State Defendants' and Intervenor-Defendants' responses, and considered the relevant case law. The Court concludes that Meriwether failed to state a claim for violation of his rights under the United States Constitution. His speech—the manner by which he addressed a transgender student—was not protected under the First Amendment. Further, he did not plead facts sufficient to state a claim for a violation of his right to free exercise of religion, for a departure from

religious neutrality under *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission*, 138 S. Ct. 1719 (2018), or for a violation of his rights to due process or equal protection. The Court will adopt the Magistrate Judge's recommendation to dismiss the federal claims. Additionally, the Court agrees with and will adopt the Magistrate Judge's recommendation to decline to exercise supplemental jurisdiction over the state claims.

For the foregoing reasons, the Report and Recommendation (Doc. 49) is **ADOPTED**, Meriwether's Objections (Doc. 53) are **OVERRULED**, and the Motions to Dismiss (Docs. 36, 44) are **GRANTED**.

IT IS SO ORDERED.

Dated this 12th day of February, 2020.

BY THE COURT:



Susan J. Dlott
United States District Judge