

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

WAYNE A. SILVA,	:	
Plaintiff,	:	
	:	
v.	:	C.A. No. 18-95WES
	:	
SARAH A. THORNTON, et al.,	:	
Defendants.	:	

REPORT AND RECOMMENDATION

PATRICIA A. SULLIVAN, United States Magistrate Judge.

Pending before the Court are three motions filed by Plaintiff Wayne A. Silva. These three motions were filed after the Court dismissed the action on June 20, 2018, and after the Court denied two post-dismissal Fed. R. Civ. P. 60 motions and returned a post-dismissal motion to amend the complaint. All three of the latest motions have been referred to me. I deny the second motion to amend the complaint (ECF No. 17) by separate text order because an amendment is futile in a case that has already been dismissed. I recommend that the third Fed. R. Civ. P. 60 motion (ECF No. 16) be denied for the same reasons that the Court relied on when the first two Fed. R. Civ. P. 60 motions were denied. See Text Order of August 3, 2018. Similarly, I recommend that the motion for seizure of property pursuant to Fed. R. Civ. P. 64 (ECF No. 18) be denied because there is no judgment or potential judgment on which such seizure may be based as the case has been dismissed.

Plaintiff's repeated filing of frivolous motions in this Court after the underlying case has been dismissed mirrors similar conduct in the District of Massachusetts. After he filed a Fed. R. Civ. P. 60 motion for relief from judgment which did not set forth any basis for relief under Rule 60, the Massachusetts court ordered that, except for the filing of a notice of appeal, he was prohibited from filing any other papers in the action. Silva v. Thornton, Civil Action No. 17-

12106-FDS, ECF No. 7 (D. Mass. Jan. 29, 2018). In so doing, the court referenced other Massachusetts cases in which Plaintiff has been barred from filing post-judgment motions. See, e.g., Silva v. United States, 07-11133-DPW (D. Mass.); Silva Wayne Anthony v. City of New Bedford, C.A. No. 01-10918-RWZ (D. Mass).

As in the District of Massachusetts, Plaintiff's latest post-dismissal motions have consumed judicial resources and burdened the Clerk's Office staff. Accordingly, I recommend that, except for a notice of appeal, the Court enter an Order prohibiting Plaintiff from filing any further motions or other documents in this matter without first obtaining permission from a judge of this Court. See Cok v. Family Court of Rhode Island, 985 F.2d 32, 36 (1st Cir. 1993) ("We have not hesitated to uphold injunctions that were narrowly drawn to counter the specific offending conduct.").

Any objection to this report and recommendation must be specific and must be served and filed with the Clerk of the Court within fourteen (14) days after its service on the objecting party. See Fed. R. Civ. P. 72(b)(2); DRI LR Cv 72(d). Failure to file specific objections in a timely manner constitutes waiver of the right to review by the district judge and the right to appeal the Court's decision. See United States v. Lugo Guerrero, 524 F.3d 5, 14 (1st Cir. 2008); Park Motor Mart, Inc. v. Ford Motor Co., 616 F.2d 603, 605 (1st Cir. 1980).

/s/ Patricia A. Sullivan
PATRICIA A. SULLIVAN
United States Magistrate Judge
August 21, 2018