

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF INDIANA
 INDIANAPOLIS DIVISION

KEITH WALKER, SR., as Personal)	
Representative of the Estate of Sherese)	
Bingham,)	
)	
Plaintiff,)	1:14-cv-01828-RLY-DKL
)	
vs.)	
)	
EUGENE BINGHAM, JR.,)	
)	
Defendant.)	

**ENTRY ON THE MAGISTRATE JUDGE’S
 REPORT AND RECOMMENDATION**

Protective Life Insurance Company issued two life insurance policies to Sherese A. Bingham. She passed away on December 12, 2012 from a gunshot wound. Her death certificate ruled her manner of death as a homicide. Her surviving spouse, Eugene Bingham, Jr., was later charged with her murder. That turn of events prompted Protective Life to file a Complaint for Interpleader against Mr. Bingham and Keith Walker, Sr., as Personal Representative of the Estate of Sherese Bingham, on grounds Eugene may be barred under Indiana’s Slayer Statute, Ind. Code § 29-1-2-12.1. Mr. Bingham and Mr. Walker filed cross-claims against one another, with each claiming entitlement to the funds. Mr. Walker also filed a wrongful death action against Mr. Bingham pursuant to Indiana’s Wrongful Death Statute, Ind. Code § 34-23-1-1 *et seq.*

On April 30, 2015, Protective Life deposited the full amount due and owing under the policies with the registry of the Court. On May 28, 2015, the court granted Protective

Life's Motion for Discharge. The parties were then realigned with Mr. Walker as Plaintiff and Mr. Bingham as Defendant.

On July 22, 2015, the court entered an order staying the case until a verdict was reached in Mr. Bingham's criminal trial, which had been reset for September 2015. In August, one month before his criminal trial was to begin, the prosecutor dismissed the charges against Mr. Bingham.

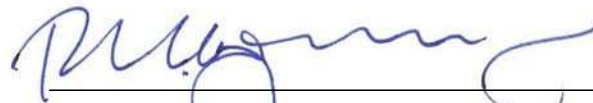
Mr. Bingham thereafter filed two motions in this case. First, he filed a Motion to Lift Stay; Dismiss Crossclaim Filed by Interpleader Defendant Keith Walker, Sr., as Personal Representative of the Estate of Sherese Bingham; and to Release Deposited Funds to Interpleader-Defendant Eugene Bingham, Jr. (Filing No. 41). Second, he filed a Motion to Release Deposited Funds to Interpleader-Defendant or in the Alternative, Transfer this Matter to State Court (Filing No. 47). The court referred the motions to the Magistrate Judge, who issued her Report and Recommendation Regarding Jurisdiction and Interpleaded Funds ("R&R") on April 28, 2016.

In her R&R, the Magistrate Judge recommends that the district court grant in part both motions. Specifically, she recommends that the court: (1) relinquish jurisdiction over the supplemental claims, (2) dismiss those claims without prejudice to allow the parties to pursue them in the wrongful death action filed in the Marion Superior Court, Cause Number 49D13-1412-CT-40680, and (3) direct the Clerk of the Court to transfer the interpleaded funds to the Marion Superior Court for distribution by that court in due course. (Filing No. 49, R&R at 6). As there is no objection by either party, the court

reviews the Report and Recommendation for clear error. *Johnson v. Zema Sys. Corp.*, 170 F.3d 734, 739 (7th Cir. 1999).

After reviewing the record, the R&R, and the relevant case law, this court is satisfied that the Magistrate Judge did not commit clear error. Accordingly, the court **ADOPTS** the Magistrate Judge's Report and Recommendation (Filing No. 49). Mr. Bingham's Motion to Dismiss Crossclaim and to Release Deposited Funds to Interpleader-Defendant Eugene Bingham, Jr., is **GRANTED in PART** (Filing No. 41), and his Motion to Release Deposited Funds or in the Alternative, Transfer this Matter to State Court (Filing No. 47), is **GRANTED in PART**. This case is hereby dismissed without prejudice to allow the parties to pursue the supplemental claims in the wrongful death action filed in the Marion Superior Court, Cause Number 49D13-1412-CT-40680.

SO ORDERED this 12th day of September 2016.



RICHARD L. YOUNG, CHIEF JUDGE
United States District Court
Southern District of Indiana

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