

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION at LEXINGTON

DAVID WAYNE BAILEY,)	
)	
Plaintiff,)	Civil Action No.
)	16-CV-343-JMH-REW
v.)	
)	
ARAMARK CORPORATION, et al.,)	MEMORANDUM OPINION AND ORDER
)	
Defendants .)	

** ** ** ** **

This matter is before the Court on the Report and Recommendation of Magistrate Judge Robert E. Wier [DE 61]. Said action was referred to the magistrate to conduct further proceedings and the preparation of a Report and Recommendation regarding any dispositive motions [DE 42]. Defendants made a Motion for Summary Judgment [DE 58], to which the pro se Plaintiff, David Wayne Bailey, did not respond. See DE 60 (ordering response from Plaintiff by March 7, 2018).

In his Report and Recommendation [DE 61], the Magistrate Judge concludes that, in the absence of any genuine dispute of material fact, Defendants are entitled to judgment as a matter of law because Bailey has failed to set forth sufficient proof regarding the objective and subjective elements of his claim for

violation of the Eighth Amendment, brought pursuant to 42 U.S.C. § 1983, and because his claim for outrage under state law fails, as well. Bailey has filed no objections to the Report and Recommendation, and the time to do so has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

Generally, “a judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636. However, when the petitioner fails to file any objections to the Recommended Disposition, “[i]t does not appear that Congress intended to require district court review of a magistrate’s factual or legal conclusions, under a de novo or any other standard.” *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Further, the Court concludes that the recommended disposition is well supported by the law cited by the magistrate judge and the undisputed evidence offered in support of Defendant’s Motion for Summary Judgment. Consequently and in the absence of any objections from Plaintiff Bailey, this Court adopts the well-articulated and detailed reasoning set forth in the Report and Recommendation as its own.

Accordingly, **IT IS ORDERED:**

(1) that the Report and Recommendation of Magistrate Judge Robert E. Wier [DE 61] is **ACCEPTED and ADOPTED;**

(2) that Defendants’ Motion for Summary Judgment [DE 58] is **GRANTED**

This is the 6th day of June, 2018.



Signed By:

Joseph M. Hood *JMH*

Senior U.S. District Judge