

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF KENTUCKY
CENTRAL DIVISION
LEXINGTON

KENNETH MOBLEY,

Plaintiff

V.

DIRECTOR FARMER, *et al.*,

Defendants.

Civil No. 5:20-cv-00513-GFVT-EBA

ORDER

*** **

This matter is before the Court on a Recommended Disposition filed by United States Magistrate Judge Edward B. Atkins. [R. 52.] On December 28, 2020, Plaintiff Kenneth Mobley, proceeding *pro se*, filed suit against multiple defendants alleging violations of 42 U.S.C. § 1983. [R. 1.] On January 25, 2021, the Court dismissed all defendants except for Defendant Hall. [R. 11.] Since then, Mr. Hall has filed multiple motions to compel Plaintiff Mobley to engage in discovery and to dismiss this action. [R. 41; R. 43; R. 47; R. 48; R. 51.] Consistent with local practice, Judge Atkins reviewed the pending motions and prepared a Recommended Disposition. [R. 52.] For the reasons that follow, the Recommended Disposition will be adopted.

After considering the record, Judge Atkins determined that Mr. Hall's motions to dismiss should be granted, while his motions to compel should be denied as moot. [R. 52 at 3.] In support of dismissal, Judge Atkins references Mr. Mobley's documented history of failing to comply with discovery and abide by court orders. *See id.* at 2-3. For example, since the Court held a status conference in this matter on November 29, 2021, Mr. Mobley has failed to file several responses to motions when ordered, failed to "produce his responses to the written discovery requests" of Mr. Hall, and failed to update his address to the Clerk as required by both

the local rules and court order. *Id.* (citing L.R. 5.3(e) and R. 8 at 2.) Accordingly, Judge Atkins recommends dismissal of this action for failure to prosecute and comply with the rules and orders of the court. *Id.* at 2 (citing *Schafer v. City of Defiance Police Dept.*, 529 F.3d 731, 736 (6th Cir. 2008) (citing Fed. R. Civ. P. 41(b))). Because Judge Atkins recommends dismissal, he also recommends the court deny as moot the remainder of Mr. Hall's pending motions. *Id.* at 3.

Generally, this Court must make a *de novo* determination of those portions of a recommended disposition to which objections are made. 28 U.S.C. § 636(b)(1)(c). When no objections are made, however, this Court is not required to "review . . . a magistrate's factual or legal conclusions, under a de novo or any other standard . . ." *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Parties who fail to object to a Magistrate's Report and Recommendation are also barred from appealing a district court's order adopting that Report and Recommendation. *United States v. Walters*, 638 F.2d 947 (6th Cir. 1981). No objections to the Report and Recommendation have been filed, and the time to do so has now expired.¹ Nevertheless, this Court has considered the record, and it ultimately agrees with the Magistrate Judge's recommendation.

Accordingly, and the Court being otherwise sufficiently advised, it is hereby **ORDERED** as follows:

1. The Magistrate Judge's Report and Recommendation [R. 52] is **ADOPTED** as and for the Opinion of the Court;

¹ Though Magistrate Judge Atkins's Report and Recommendation [R. 52] was returned undelivered [R. 53] and it is likely that Mr. Mobley was unable to review the Recommendation prior to the expiration of the objection period, it is the responsibility of the parties to ensure that the Court always has a current address on file during the pendency of litigation. Mr. Mobley was notified of this requirement at the start of this litigation and has updated his address previously. [R. 8; R. 31.] His failure to do so prior to the mailing of the Magistrate Judge's Recommendation does not warrant him additional time to object.

2. Mr. Hall's Motions to Dismiss [R. 48; R. 52] are **GRANTED**;
3. Mr. Hall's Motions to Compel [R. 41; R. 43] are **DENIED AS MOOT**;
4. Mr. Hall's Motion for Reconsideration [R. 47] is **DENIED AS MOOT**;
5. Judgment shall enter promptly.

This the 10th day of May, 2022.

The image shows a handwritten signature in black ink, which appears to read "Gregory F. Van Tatenhove", written over a circular official seal. The seal features an eagle with wings spread, perched on a shield, with the words "UNITED STATES DISTRICT COURT" and "WESTERN DISTRICT OF KENTUCKY" around the perimeter.

Gregory F. Van Tatenhove
United States District Judge