UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN NORTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff.

Case No. 14-cv-10572

V

Honorable Thomas L. Ludington Magistrate Judge Patricia Morris

MARVIN E. MCELROY and JACQUELINE A. MCELROY,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION AND GRANTING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

On February 7, 2014, Plaintiff United States filed a complaint against Defendants to collect the amount due on a promissory note. ECF No. 1. The promissory note at issue as allegedly executed in 1978 by Defendant Marvin E. McElroy to secure a loan authorized under Title IV-B of the Higher Education Act of 1865, 20 U.S.C. § 1701 *et seq.* by the U.S. Department of Education.

On June 6, 2014, the United States filed a motion for summary judgment against Defendant Marvin McElroy, who did not respond to the motion. ECF No. 13.

On August 7, 2014, Magistrate Judge Patricia Morris issued a report recommending that Plaintiff's motion for summary judgment be granted. Judge Morris found that the United States had "met its burden of establishing that Defendant signed a promissory note of which the Government is the present owner and that the note is in default." ECF No. 17 at 4. Moreover, Judge Morris noted that Marvin McElroy had "completely failed to meet [his] burden to respond

and show that there is a disputed issue of fact with regard to the nonexistence, extinguishment or

variance in payment of the obligation." *Id.* (quotations omitted).

Although the Magistrate Judge's report explicitly stated that the parties to this action may

object to and seek review of the recommendation within fourteen days of service of the report,

neither Plaintiff nor Defendant filed any objections. The election not to file objections to the

Magistrate Judge's report releases the Court from its duty to independently review the record.

Thomas v. Arn, 474 U.S. 140, 149 (1985). The failure to file objections to the report and

recommendation waives any further right to appeal.

Accordingly, it is **ORDERED** that the magistrate judge's report and recommendation

(ECF No. 17) is **ADOPTED**.

It is further **ORDERED** that Plaintiff's motion for summary judgment (ECF No. 13) is

GRANTED.

s/Thomas L. Ludington THOMAS L. LUDINGTON

United States District Judge

Dated: September 8, 2014

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first

class U.S. mail on September 8, 2014.

s/Tracy A. Jacobs

TRACY A. JACOBS

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