UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

THEODORE VISNER,

Plaintiff,

v

ISABELLA COUNTY, et al.,

Defendants.

_____/

Case No. 14-cv-14610

Honorable Thomas L. Ludington
Magistrate Judge Patricia T. Morris

ORDER ADOPTING REPORT AND RECOMMENDATION AND DISMISSING COMPLAINT

On December 5, 2014, Plaintiff Theodore Visner filed a complaint against Isabella County and various members of the Isabella County judiciary and staff. Visner alleged that Defendants "unlawfully trespassed upon the known and expected rights of Plaintiff who had a reasonable expectation to be free from such unreasonable search and seizures/ordered theft in the public setting of the public courthouse where the theft of Plaintiff's personal property occurred by the unlawful, unwritten order of the judge, Paul Chamberlain which was then unlawfully executed by threat of force through the bailiffs/accomplices/henchmen." Compl. ¶ 1. Visner alleged that Defendants violated 42 U.S.C. §§ 1983, 1985, 1988 and the First, Fourth, Fifth, Eight, and Fourteenth Amendments as well as Article I, § 10 to the Constitution of the United States. After filing the Complaint, no other action was taken in this case.

On June 30, 2015, Magistrate Judge Patricia T. Morris issued a report recommending that Visner's Complaint be dismissed for failure to prosecute. Judge Morris noted that there is no indication that Visner attempted to serve Defendants and that Visner did not respond to the May 15, 2015 show-cause order. Accordingly, Judge Morris recommended that Visner's Complaint

be dismissed *sua sponte* for failure to prosecute pursuant to Federal Rule of Civil Procedure 41(b).

Although Magistrate Judge Morris'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 Defendants 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. 5) is **ADOPTED**.

It is further **ORDERED** that Plaintiff's Complaint (ECF No. 1) is **DISMISSED** for failure to prosecute.

s/Thomas L. Ludington
THOMAS L. LUDINGTON
United States District Judge

Dated: July 28, 2015

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 and on Theodore Visner, P.O. Box 277, Mt. Pleasant, MI 48858 by first class U.S. mail on July 28, 2015.

s/Karri Sandusky
Karri Sandusky, Acting Case Manager