

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION

TIMOTHY ARTHUR BERRY,

Plaintiff,

Case No. 16-cv-10177

v.

Honorable Thomas L. Ludington  
Magistrate Judge Patricia T. Morris

OTTAWA COUNTY JAIL,

Defendant.

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**ORDER ADOPTING REPORT AND RECOMMENDATION AND DISMISSING  
PLAINTIFF'S COMPLAINT**

On January 19, 2016, Plaintiff Timothy Arthur Berry filed a complaint against the Ottawa County Jail. In the complaint Berry claims that Trese violated a series of his constitutional rights including his Seventh, Fifth, First, and Fourteenth Amendment rights. Berry also applied for permission to proceed *in forma pauperis*. Berry's case was referred to Magistrate Judge Patricia T. Morris for general case management.

On February 12, 2016, Judge Morris issued a report recommending Berry's complaint be dismissed for failing to state a claim on which relief may be granted. *See* Rep. & Rec. 5-7, ECF No. 7 Judge Morris explained that Berry's claims are properly brought under 42 U.S.C. § 1983, but must be dismissed because the Ottawa County Jail is not a "person" for purposes of that section. Thus, Judge Morris concluded, Berry's complaint is meritless and does not state a claim under 42 U.S.C. § 1983.

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. 7, is **ADOPTED**.

It is further **ORDERED** that Plaintiff Timothy Berry's Complaint, ECF No. 1, is **DISMISSED with prejudice**.

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

Dated: March 8, 2016

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 March 8, 2016.

s/Michael A. Sian  
MICHAEL A. SIAN, Case Manager