

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

CHRISTOPHER HARRIS, II,

Plaintiff,

Case No. 16-cv-10778

v

Honorable Thomas L. Ludington

A. O. SANBORN,

Magistrate Judge Patricia T. Morris

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION AND DISMISSING CASE

At the time he filed his pro se complaint on March 1, 2016, Plaintiff Christopher Harris II was a state court prisoner in the custody of the Macomb County Jail serving a term of post-conviction confinement. *See* ECF No. 21. In his original complaint Harris alleged that Defendant Anthony Wickersham, the Macomb County Sherriff, violated his rights to due process under the Fourteenth Amendment and his right to be free from cruel and unusual punishment under the Eighth Amendment by limiting his access to the law library and to legal materials. *See* Compl., ECF No. 1.

After Defendant Wickersham moved to dismiss Plaintiff's complaint, Plaintiff filed four motions for injunctive relief and a motion to amend his complaint. By an order dated August 30, 2016 Plaintiff was granted leave to amend his complaint to state (1) a § 1983 claim against various deputies for limiting his access to the law library in violation his constitutional rights; and (2) A § 1983 claim against various deputies, as well as against Sheriff Wickersham in his official capacity, for excessive force in violation of the Eighth Amendment. *See* ECF No. 30. Harris was directed to file his amended complaint on or before September 21, 2016. His requests for injunctive relief were denied.

Plaintiff Harris did not file his amended complaint by the required date. Therefore, on October 28, 2016 Magistrate Judge Patricia T. Morris ordered Plaintiff Harris to show cause as to why the case should not be dismissed for failure to prosecute. *See* ECF No. 32. Harris was served with the order at the address he provided the Court, however the mail was returned as undeliverable. *See* ECF No. 35. Under Eastern District of Michigan Local Rule 11.2 Harris has a responsibility to promptly notify the Court whenever his address changes. Harris was advised of this rule upon the filing of his complaint. *See* ECF No. 3. Nonetheless, the magistrate judge attempted to serve Harris at his new address and extended the time for him to respond to the show cause order until November 28, 2016. *See* ECF No. 36.

After Plaintiff Harris failed to respond to the show cause order, the magistrate judge issued a report and recommendation recommending that Harris's complaint be dismissed with prejudice for failure to prosecute. *See* ECF No. 37. Although the magistrate judge's report explicitly states that the parties could object to and seek review of the recommendation within fourteen days of service of the report, Plaintiff Harris did not file 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. 37, is **ADOPTED**.

It is further **ORDERED** that Plaintiff Harris's complaint is **DISMISSED with prejudice**.

It is further **ORDERED** that Plaintiff Harris's pending motions, ECF Nos. 27, 28, and 29, are **DENIED as moot**.

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

Dated: January 5, 2017

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 January 5, 2017.

s/Michael A. Sian
MICHAEL A. SIAN