

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MICHAEL BEEBE,

Plaintiff,

v.

THOMAS BIRKETT, TIM BEAVERS,
WILLIE O. SMITH, GERRY WYMA,
and DAVE BURNETT,

Defendants.

Case No. 08-14995

Honorable David M. Lawson

Magistrate Judge Michael J. Hluchaniuk

ORDER ADOPTING REPORT AND RECOMMENDATION
AND DISMISSING COMPLAINT

Presently before the Court is the report issued on December 7, 2010 by Magistrate Judge Michale J. Hluchaniuk pursuant to 28 U.S.C. § 636(b). Judge Hluchaniuk recommended dismissing with prejudice the plaintiff's complaint under Fed. R. Civ. P. 41(b) for failure to prosecute and denying as moot the defendants' pending motion for summary judgment. Judge Hluchaniuk noted that the plaintiff had failed to respond to two separate court orders, each of which contained a warning that failure to timely respond could result in the dismissal of his complaint.

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. As of the date of this order, no objections have been filed. A party's failure to file objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motion. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the Magistrate Judge.

Accordingly, it is **ORDERED** that the Magistrate Judge's Report and Recommendation [dkt # 47] is **ADOPTED**.

It is further **ORDERED** that the plaintiff's complaint [dkt. #1] is **DISMISSED WITH PREJUDICE** for failure to prosecute.

It is further **ORDERED** that the defendants' motion for summary judgment [dkt. #41] is **DENIED as moot**.

s/David M. Lawson _____
DAVID M. LAWSON
United States District Judge

Dated: January 13, 2011

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 13, 2011.

s/Deborah R. Tofil _____
DEBORAH R. TOFIL