

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JAMES JOHN YAX,

Plaintiff,

Case No. 11-10228  
Hon. Marianne O. Battani

v.

COMMISSIONER OF SOCIAL  
SECURITY,

Defendant.

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**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION  
AND DISMISSING PLAINTIFF'S COMPLAINT PURSUANT TO RULE 41(b)**

Plaintiff James John Yax brings this action challenging the final decision of the Commissioner denying his application for disability insurance benefits. The case was referred to Magistrate Judge Charles E. Binder pursuant to 28 U.S.C. § 636(b)(1). After Plaintiff failed to file a dispositive motion in accordance with the scheduling order, the Magistrate Judge issued an order informing Plaintiff that if he failed to file a motion and brief on or before June 30, 2011, the Magistrate Judge would recommend that this case be dismissed with prejudice.

Plaintiff failed to file a motion and brief. Consequently, in a Report and Recommendation ("R&R") dated July 7, 2011, Magistrate Judge Binder recommended that the Court dismiss this matter pursuant to Rule 41(b), for failure to prosecute. FED. R. CIV. P. 41(b).

In his R&R, the Magistrate Judge informed the parties that objections to the R&R needed to be filed within "fourteen (14) days of service" and that a party's failure to file objections would waive any further right of appeal. R&R at 4. Neither party filed an

objection.

Because no objection has been filed in this case, the parties waived their right to *de novo* review and appeal. Accordingly, the Court **ADOPTS** the Magistrate Judge's recommendation, and **DISMISSES** Plaintiff's Complaint with prejudice.

**IT IS SO ORDERED.**

s/Marianne O. Battani  
MARIANNE O. BATTANI  
UNITED STATES DISTRICT JUDGE

DATE: July 25, 2011

**CERTIFICATE OF SERVICE**

A copy of this Order was e-filed and/or mailed to Plaintiff and counsel of record on this date.

s/Bernadette M. Thebolt  
Case Manager