

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DEANNA SMITH,

Plaintiff,

Case No. 12-cv-14702

v.

HONORABLE STEPHEN J. MURPHY, III

PATRICIA DEWBERRY, GLORIA
FRODYMA, and RICK SMITH,

Defendants.

**ORDER ADOPTING REPORT AND
RECOMMENDATION (document no. 31) AND DISMISSING CASE**

This is a prisoner civil rights case. Plaintiff Deanna Smith, proceeding pro se, brings this action under 42 U.S.C. § 1983. The Court referred all pre-trial proceedings to a U.S. Magistrate Judge for resolution or recommendation. On November 8, 2013, the magistrate judge filed a Report and Recommendation ("Report") suggesting the Court dismiss the case for failure to prosecute, and terminate the pending motions as moot. The Report noted that Smith had failed to respond to earlier order to respond to outstanding motions, and that the magistrate judge entered an order to show cause why the case should not be dismissed for lack of prosecution on October 11, 2013. See ECF No. 30. Smith did not respond within the required time, and the Report therefore suggests that the Court dismiss the case for failure to prosecute.¹

Civil Rule 72(b) governs review of a magistrate judge's report and recommendation. De novo review of the magistrate judge's findings is only required if the parties "serve and file specific written objections to the proposed findings and recommendations." Fed. R. Civ.

¹ Civil Rule 41 permits a court to dismiss a case for failure to prosecute "[i]f the plaintiff fails to prosecute or to comply with these rules or a court order." Fed. R. Civ. P. 41(b); see *Knoll v. Am. Tel. & Tel. Co.*, 176 F.3d 359, 363 (6th Cir. 1999).

P. 72(b)(2). Nevertheless, because a district judge always retains jurisdiction over a motion after referring it to a magistrate judge, he is entitled to review the magistrate judge's findings of fact and conclusions of law on his own initiative. See *Thomas v. Arn*, 474 U.S. 140, 154 (1985) (clarifying that while a district court judge need not review a report and recommendation "de novo if no objections are filed, it does not preclude further review by the district judge, sua sponte or at the request of a party, under a de novo or any other standard").

Because neither party filed objections to the Report, de novo review of the Report's conclusions is not required. Having reviewed the Report's analysis, in light of the record, and in light of Plaintiff's previous failures to respond to court orders and deadlines, the Court finds that its conclusions are factually based and legally sound. Accordingly, the Court will adopt the Report and dismiss the case.

ORDER

WHEREFORE, it is hereby **ORDERED** that the Report and Recommendation (document no. 31) is **ADOPTED**. This case is **DISMISSED WITH PREJUDICE**.

SO ORDERED.

s/Stephen J. Murphy, III
STEPHEN J. MURPHY, III
United States District Judge

Dated: November 26, 2013

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on November 26, 2013, by electronic and/or ordinary mail.

s/Carol Cohron
Case Manager