

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DORIAN WILLIS,

Plaintiff,

Case No. 13-cv-13672

Hon. Matthew F. Leitman

v.

ANTHONY WICKERSHAM *et al.*,

Defendants.

**ORDER (1) ADOPTING REPORT AND RECOMMENDATION (ECF #93),
(2) GRANTING DEFENDANTS' MOTION TO DISMISS (ECF #81), (3)
SUBSTITUTING COUNTY OF MACOMB AS DEFENDANT, (4) DENYING
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT (ECF #91), AND
(5) GRANTING DEFENDANTS' MOTION
FOR SUMMARY JUDGMENT (ECF #86)**

On February 26, 2015, Plaintiff Dorian Willis (“Willis”) filed a First Amended Complaint related to his incarceration at the Macomb County Jail. (*See* ECF #78.) On March 3, 2015, Defendants Anthony Wickersham (“Wickersham”) and Michelle Sanborn (“Sanborn”) filed a motion to dismiss the First Amended Complaint (the “Motion to Dismiss”). (*See* ECF #81.) Wickersham and Sanborn subsequently also filed a motion for summary judgment (the “Summary Judgment Motion”). (*See* ECF #86.) Willis responded to the motions and filed his own cross-motion for summary judgment (the “Cross Motion for Summary Judgment”). (*See* ECF #93.)

On February 4, 2016, the assigned Magistrate Judge issued a report and recommendation (the “R&R”) in which he recommended that the Court:

- (1) Grant the Motion to Dismiss as to Defendants Wickersham and Sanborn and (2) substitute the County of Macomb as the proper Defendant in this action;
- Deny Willis’s Cross Motion for Summary Judgment; and
- Grant the Summary Judgment Motion and dismiss the First Amended Complaint. (*See* ECF #93 at 2, Pg. ID 567.)

At the conclusion of the R&R, the Magistrate Judge instructed the parties that “[a]ny objections to this Report and Recommendation must be filed within fourteen (14) days...” and that the “[f]ailure to file specific objections constitutes a waiver of any further right of appeal.” (*Id.* at 12, Pg. ID 577.)

No party, including Willis, has filed an objection to the R&R. As the Magistrate Judge informed the parties, the failure to file an objection to a report and recommendation waives any further right to appeal. *See Howard v. Sec’y of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *Smith v. Detroit Fed’n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object releases the Court from its duty to independently review the matter. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985). The Court has nevertheless reviewed the R&R and agrees with the findings and conclusions of the Magistrate Judge.

Therefore, **IT IS HEREBY ORDERED** that the R&R (ECF #93) is **ADOPTED** as the Opinion of this Court. **IT IS FURTHER ORDERED** that, for the reasons stated in the R&R,

- the Motion to Dismiss (ECF #81) is **GRANTED** as to Defendants Wickersham and Sanborn;
- the County of Macomb is substituted as the proper Defendant in this action;
- Willis's Cross Motion for Summary Judgment (ECF #91) is **DENIED**; and
- the Summary Judgment Motion (ECF #86) is **GRANTED**.

Dated: February 26, 2016

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on February 26, 2016, by electronic means and/or ordinary mail.

s/Holly A. Monda
Case Manager
(313) 234-5113