UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

M.M.O. MANNING, Plaintiff, v. UNITED STATES OF AMERICA, Defendant.	Case No. 15-cv-12355 Honorable Laurie J. Michelson Magistrate Judge Stephanie Dawkins Davis

ORDER GRANTING DEFENDANT'S MOTION TO DISMISS [12]

Before the Court is Magistrate Judge Stephanie Dawkins Davis' Report and Recommendation. (R. 19.) At the conclusion of her Report and Recommendation, the Magistrate Judge notified the parties that they were required to file any objections within fourteen days of service, as provided in Federal Rule of Civil Procedure 72(b)(2) and Eastern District of Michigan Local Rule 72.1(d), and that "[f]ailure to file specific objections constitutes a waiver of any further right of appeal." (R. 19, PID 132.) The time to file objections has expired and no objections have been filed.[1]

The Court finds that the parties' failure to object is a procedural default, waiving review of the Magistrate Judge's findings by this Court. In *United States v. Walters*, 638 F.2d 947, 949–50 (6th Cir. 1981), the Sixth Circuit established a rule of procedural default, holding that "a party shall file objections with the district court or else waive right to appeal." And in *Thomas v. Arn*, 474 U.S. 140, 144 (1985), the Supreme Court explained that the Sixth Circuit's waiver-of-

[1] Plaintiff filed a response stating that she "accepts" the Report and Recommendation. (R. 20.) "Based on this, it is clear plaintiff agrees with, rather than objects to, the Report and Recommendation." *Tatum v. Upton*, No. 1:08cv616, 2008 U.S. Dist. LEXIS 97505, at *1 n.1 (E.D. Tex. Nov. 25, 2008).

appellate-review rule rested on the assumption "that the failure to object may constitute a procedural default waiving review even at the district court level." 474 U.S. at 149; *see also Garrison v. Equifax Info. Servs., LLC*, No. 10-13990, 2012 WL 1278044, at *8 (E.D. Mich. Apr. 16, 2012) ("The Court is not obligated to review the portions of the report to which no objection was made." (citing *Thomas*, 474 U.S. at 149–52)). The Court further held that this rule violates neither the Federal Magistrates Act nor the Federal Constitution.

The Court therefore finds that the parties have waived further review of the Magistrate Judge's Report and accepts her recommended disposition. It follows that Defendant's motion to dismiss (R. 12) is GRANTED. As this order resolves this litigation, a separate judgment will issue.

SO ORDERED.

s/Laurie J. Michelson
LAURIE J. MICHELSON
U.S. DISTRICT JUDGE

Dated: March 6, 2017

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on March 6, 2017.

s/Keisha Jackson
Case Manager