

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DAWAN PIERCE THURMOND,

Plaintiff,

v.

CITY OF SOUTHFIELD, et al,

Defendants.

Case No. 15-cv-13167

Honorable Laurie J. Michelson

Magistrate Judge R. Steven Whalen

**ORDER ADOPTING REPORT AND RECOMMENDATION [122] AND DISMISSING
DEFENDANT NORTHLAND CENTER MICHIGAN, LLC WITHOUT PREJUDICE**

Before the Court is Executive Magistrate Judge R. Steven Whalen's Report and Recommendation to dismiss Defendant Northland Center Michigan, LLC without prejudice. (Dkt. 122.) At the conclusion of his Report and Recommendation, the magistrate judge notified Plaintiff Dawan Pierce Thurmond that he was 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." (Report & Recommendation at 4.) No objections were filed.

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 that "a party shall be informed by the magistrate [judge] that objections must be filed within ten days or further appeal is waived." In *Thomas v. Arn*, 474 U.S. 140, 144 (1985), the Supreme Court held that this rule violates neither the Federal Magistrates Act nor the federal constitution. Thus, the Court finds that Mr. Thurmond's failure to object is a procedural default, waiving review of the magistrate judge's findings by this Court.

See Thomas, 474 U.S. at 149 (explaining that Sixth Circuit’s waiver-of-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”); *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 therefore finds that Mr. Thurmond has waived further review of the Report and accepts the magistrate judge’s recommended disposition. It follows that Defendant Northland Center Michigan, LLC is DISMISSED WITHOUT PREJUDICE.

SO ORDERED.

s/Laurie J. Michelson
LAURIE J. MICHELSON
UNITED STATES DISTRICT JUDGE

Dated: May 24, 2016

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of the foregoing document was served on the attorneys and/or parties of record by electronic means or U.S. Mail on May 24, 2016.

s/Jane Johnson
Case Manager to
Honorable Laurie J. Michelson