

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

WILLIAM M. CALDWELL, JR.,

Plaintiff,

v.

CAROLYN W. COLVIN, Acting  
Commissioner of Social Security,

Defendant.

Case No. 15-14358

Honorable Laurie J. Michelson

Magistrate Judge Elizabeth A. Stafford

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**ORDER GRANTING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT [17]  
AND DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT [14]**

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Before the Court is Magistrate Judge Elizabeth A. Stafford's Report and Recommendation. (R. 21.) At the conclusion of her Report and Recommendation, Magistrate Judge Stafford 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. 21, PID 1129.) The time to file objections has expired, and no objections have been 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 the parties' 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 the parties have waived further review of the Report and Recommendation and accepts the Magistrate Judge’s recommended disposition. It follows that Defendant’s Motion for Summary Judgment (R. 17) is GRANTED, and Plaintiff’s Motion for Summary Judgment (R. 14) is DENIED. The ALJ’s decision is AFFIRMED.

SO ORDERED.

Dated: March 1, 2017

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

### **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 1, 2017.

s/Keisha Jackson  
Case Manager