

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHARLES FRANCIS BOYD,

Plaintiff,

v.

CITY OF WARREN,
WARREN POLICE DEPARTMENT,
WARREN CITY HALL,
JERE GREEN,
COLIN MCCABE,
JEFFREY MASSERANG, JR.,
ROBERT HORLOCKER, and
ROLAND BELL,

Defendants.

Case No. 16-cv-12741

Honorable Laurie J. Michelson

Magistrate Judge R. Steven Whalen

ORDER ADOPTING REPORT AND RECOMMENDATION [90]

Before the Court is Executive Magistrate Judge R. Steven Whalen's January 19, 2021 Report and Recommendation. (ECF No. 90.) At the conclusion of his report, Magistrate Judge Whalen notified the parties that they were required to file any objections within fourteen days of service and that "[f]ailure to file specific objections constitutes a waiver of any further right of appeal." (ECF No. 90, PageID.2089.) It is now February 16, 2021. As such, the time to file objections has expired. And no objections have been filed.

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-

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 his recommended disposition. Defendants’ Motion for Dismissal (ECF No. 80) is DENIED.

This case is ready for trial. As a result of the ongoing coronavirus pandemic, however, the District has not yet resumed in-court proceedings. Once civil jury trials are resumed, and depending on where this case falls in line, the Court will schedule final pre-trial and trial dates.

SO ORDERED.

Dated: February 17, 2021

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