

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

TIMOTHY DYE, 302488,

Plaintiff,

Civil Action No. 17-CV-10183

vs.

HON. BERNARD A. FRIEDMAN

J. HATTON and  
L. GIDLEY,

Defendants.  
\_\_\_\_\_ /

**ORDER ACCEPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION,  
AND DENYING PLAINTIFF'S MOTIONS FOR DEFAULT**

This matter is presently before the Court on plaintiff's motion for a clerk's default and for a default judgment [docket entries 21 and 22]. Magistrate Judge Whalen has issued a Report and Recommendation ("R&R") in which he recommends that both motions be denied. Plaintiff has filed a pro forma objection but does not address the magistrate judge's reasoning, namely, that Congress has eliminated default as a remedy in prisoner cases. *See* 42 U.S.C. § 1997e(g). Further, as the magistrate judge noted, defendants have recently responded to the complaint by filing a motion for summary judgment, thereby mooting the issue raised in plaintiff's motions for default. Accordingly,

IT IS ORDERED that Magistrate Judge Whalen's R&R is hereby accepted and adopted as the findings and conclusions of the Court.

IT IS FURTHER ORDERED that plaintiff's motion for a clerk's default and for a default judgment [docket entries 21 and 22] are denied.

Dated: July 2, 2018  
Detroit, Michigan

s/Bernard A. Friedman  
BERNARD A. FRIEDMAN  
SENIOR UNITED STATES 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 July 2, 2018.

s/Johnetta M. Curry-Williams  
Case Manager