

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

NICHOLAS W. NOVAK,

Plaintiff,

v.

Case No. 22-10315

Honorable Linda V. Parker

CITY OF MADISON HEIGHTS,
MADISON HEIGHTS POLICE
DEPARTMENT, JORDAN RIECK,
THOMAS BAKER, STEVEN SCHRAM,
MATTHEW BELL, LURIS KARAJ,
STATE OF MICHIGAN, TEXAS ROADHOUSE,
and MICHAEL WING,

Defendants.

_____ /

AMENDED
OPINION AND ORDER ADOPTING MAGISTRATE JUDGE'S SEPTEMBER 23,
2022 REPORT AND RECOMMENDATION

Plaintiff initiated this pro se civil rights lawsuit against Defendants on February 15, 2022. The action arises from a January 1, 2022 incident at a Texas Roadhouse restaurant in Madison Heights, Michigan, where managers at the restaurant demanded that Plaintiff and his family members leave and summoned the police. Plaintiff alleges police officers attacked and arrested him, and then transported him without securing him in a seatbelt to the police department.

The matter has been referred to Magistrate Judge Anthony P. Patti for all pretrial proceedings, including a hearing and determination of all non-dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(A) and/or a report and recommendation on all

dispositive matters pursuant to 28 U.S.C. § 636(b)(1)(B). (ECF No. 14.)

Defendants State of Michigan and Texas Roadhouse filed motions to dismiss.

(ECF Nos. 10, 25.) Plaintiff did not respond to either motion. On September 23,

Magistrate Judge Patti issued a report and recommendation (R&R) recommending that the Court grant both motions. (ECF No. 29.)

At the conclusion of the R&R, Magistrate Judge Patti informs the parties that they must file any objections to the R&R within fourteen days. (*Id.* at Pg ID 287.) He further specifically advises the parties that “[f]ailure to file specific objections constitutes a waiver of any further right to appeal.” (*Id.* (citations omitted).) Neither party filed objections.

The Court has carefully reviewed the R&R and concurs with the conclusions reached by Magistrate Judge Patti, although the Court also finds Plaintiff’s claims against the State of Michigan subject to dismissal on the grounds of Eleventh Amendment immunity. The Court therefore adopts the R&R.

Accordingly,

IT IS ORDERED that the State of Michigan’s motion to dismiss (ECF No. 10) and Texas Roadhouse’s motion to dismiss (ECF No. 25) are **GRANTED** and these parties are terminated from this action.

s/ Linda V. Parker _____
LINDA V. PARKER
U.S. DISTRICT JUDGE

Dated: November 8, 2022

I hereby certify that a copy of the foregoing document was mailed to counsel of record and/or pro se parties on this date, November 8, 2022, by electronic and/or U.S. First Class mail.

s/Aaron Flanigan
Case Manager