

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RICO MENEFEE,

Plaintiff,

v.

Case No. 23-cv-10024

Hon. Matthew F. Leitman

KRISTIN MASON, *et al.*,

Defendants.

**ORDER (1) ADOPTING RECOMMENDED DISPOSITION OF REPORT
AND RECOMMENDATION (ECF No. 83), (2) TERMINATING
DEFENDANTS' MOTION TO DISMISS (ECF No. 67) AS MOOT, AND
(3) DISMISSING COMPLAINT**

Plaintiff Rico Menefee is a former Michigan state prisoner who at all relevant times was in the custody of the Michigan Department of Corrections (the "MDOC"). In this action, Menefee claims that several MDOC employees violated his First, Eighth, and Fourteenth Amendment rights and were deliberately indifferent to his serious medical needs. (*See* Compl., ECF No. 1.)

On March 29, 2024, Defendants filed a motion to dismiss Menefee's claims. (*See* Mot., ECF No. 67.) On that same day, the Magistrate Judge issued an order requiring Menefee to file a response to Defendants' motion by no later than April 19, 2024. (*See* Order, ECF No. 68.) Menefee thereafter filed a motion to extend the time for him to file a response (*see* Mot., ECF No. 70), and, on May 8, 2024, the

Magistrate Judge granted that motion in part and extended the time for Menefee to respond until May 29, 2024. (*See* Order, ECF No. 74.) Menefee never filed a response to Defendants' motion by the extended deadline. Accordingly, on September 10, 2024, the Magistrate Judge ordered Menefee to show cause, in writing, why the Court should not dismiss his Complaint for failure to prosecute. (*See* Order, ECF No. 80.)

Menefee never filed a response to the Magistrate Judge's September 10 show cause order. Nor has he filed any response to Defendants' motion to dismiss. Moreover, several orders that the Magistrate Judge sent to Menefee at the address Menefee provided the Court, including the September 10 show cause order, have since returned to the Court as undeliverable. (*See* ECF Nos. 81, 82, and 84.) That suggests that the contact information Menefee provided the Court is no longer valid.

On October 30, 2024, the Magistrate Judge issued a report and recommendation in which she recommended that the Court (1) dismiss Menefee's Complaint for failure to prosecute and failure to comply with the Court's orders and (2) terminate Defendants' motion to dismiss as moot (the "R&R"). (*See* R&R, ECF No. 83.) At the conclusion of the R&R, the Magistrate Judge informed the parties that if they wanted to seek review of her recommendation, they needed to file specific objections with the Court within fourteen days. (*See id.*, PageID.704-705.)

Menefee has not filed any objections to the R&R. Nor has he contacted the Court to ask for additional time to respond. The failure to object to an R&R releases the Court from its duty to independently review the matter. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985). *See also Ivey v. Wilson*, 832 F.2d 950, (6th Cir. 1987) (explaining that where party fails to file “timely objections” to report and recommendation, court may accept that recommendation “without expressing any view on the merits of the magistrate’s conclusions”). In addition, the failure to file objections to an R&R waives any further right to appeal. *See Howard v. Sec’y of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *Smith v. Detroit Fed’n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987).

Accordingly, because Menefee has failed to file any objections to the R&R, and because he has failed to provide the Court valid contact information,¹ **IT IS HEREBY ORDERED** that the Magistrate Judge’s recommendation to dismiss Menefee’s Complaint and terminate Defendants’ motion to dismiss as moot is **ADOPTED**.

¹ Local Rule 11.2 requires a party to file a notice with the Clerk of the Court if the party’s mailing address and/or other contact information changes. *See* E.D. Mich. Local Rule 11.2. The failure to comply with this requirement is not a mere technical violation of the rules. Without a current address or accurate contact information for Menefee, the Court has no way of administering this civil action.

IT IS FURTHER ORDERED that Menefee's Complaint (ECF No. 1) is **DISMISSED** and Defendants' motion to dismiss (ECF No. 67) is **TERMINATED WITHOUT PREJUDICE AS MOOT.**

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: January 7, 2025

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on January 7, 2025, by electronic means and/or ordinary mail.

s/Holly A. Ryan
Case Manager
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