

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WARREN BILLINGSLEY,

Petitioner,

Case No.1:07-cv-684

v.

HONORABLE PAUL L. MALONEY

CARMEN PALMER,

Respondent.

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**ORDER ADOPTING MAGISTRATE JUDGE’S
REPORT AND RECOMMENDATION**

The Court has reviewed the Report and Recommendation (Dkt. # 27) filed by United States Magistrate Judge Ellen S. Carmody in this action. The Report and Recommendation mailed to the petitioner was returned to the Court as petitioner has been paroled.

Even though petitioner has not received a copy of the Report and Recommendation, he has been properly served under the Federal Rules of Civil Procedure. As required by statute, the magistrate judge filed the Report and Recommendation with the Court and mailed a copy to petitioner at his last known address. *See* 28 U.S.C. § 636(b)(1)(C) (“the magistrate judge shall file his proposed findings and recommendations under subparagraph (B) with the court and a copy shall forthwith be mailed to all parties.”). Upon placing the Report and Recommendation in the mail to petitioner’s last known address, service was complete. Fed. R. Civ. P. 5(b)(2)(C). Petitioner has a continuing obligation to apprise the Court of his current address. *See* W.D. Mich. L.Civ.R. 41.1 (“Failure of a plaintiff to keep the Court apprised of his current address shall be grounds for dismissal for want of prosecution.”).

After being served with a Report and Recommendation issued by a Magistrate Judge, a party has ten days to file written objections to the proposed findings and recommendations. 28 U.S.C. § 636(b)(1)(C); FED. R. CIV. P. 72(b); *United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005). Failure to file an objection results in a waiver of the issue and the issue cannot be appealed. *Id.* See also *Thomas v. Arn*, 474 U.S. 140, 155 (1985) (upholding the Sixth Circuit's practice). No objections have been filed to date.

Although failure to file objections is a sufficient reason to adopt the Report and Recommendation, this Court has reviewed the merits of the report and finds the magistrate judge's reasoning and conclusions sound.

ACCORDINGLY, the Report and Recommendation is hereby adopted as the opinion of the Court. Therefore,

IT IS ORDERED that the amended habeas corpus petition (Dkt. #10) is **DENIED** for the reasons stated in the Report and Recommendation.

IT IS FURTHER ORDERED that a certificate of appealability is **DENIED**.

This action is terminated.

Date: November 17, 2009

/s/ Paul L. Maloney
Paul L. Maloney
Chief United States District Judge