

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DAVID YWAIN YOUNG,

Plaintiff,

CASE NO. 1:10-cv-1064

v.

HON. ROBERT J. JONKER

UNKNOWN BAILEY, *et al.*,

Defendants.

ORDER APPROVING AND ADOPTING
REPORT AND RECOMMENDATION

The Court has reviewed Magistrate Judge Brenneman's August 31, 2012 Report and Recommendation in this matter (docket # 49) and Plaintiff Young's Objection to the Report and Recommendation (docket # 53). Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, "[t]he district judge . . . has a duty to reject the magistrate judge's recommendation unless, on de novo reconsideration, he or she finds it justified." 12 WRIGHT, MILLER, & MARCUS, FEDERAL PRACTICE AND PROCEDURE § 3070.2, at 381 (2d ed. 1997). Specifically, the Rules provide that:

The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommended decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

FED R. CIV. P. 72(b). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981).

The Court has reviewed de novo the claims and evidence presented to the Magistrate Judge; the Report and Recommendation itself; and Plaintiff's objection. After its review, the Court finds that Magistrate Judge Brenneman's Report and Recommendation is factually sound and legally correct.

In his Report and Recommendation, Magistrate Judge Brenneman recommends summary judgment in favor of Defendant Bailey, the sole remaining defendant in the case. Plaintiff failed to contest Defendant Bailey's motion for summary judgment. In his objection, Plaintiff acknowledges that he failed to oppose the motion, and he belatedly offers evidence he claims establishes an issue of material fact. Plaintiff does not explain in any verified way why he failed to respond to the motion for summary judgment and put the evidence before the Magistrate Judge in the first instance. Moreover, even if Plaintiff had timely filed the evidence he submits with his objection, the analysis would not change. Plaintiff offers disconnected bits of unexplained documents but points to no specific evidence demonstrating a genuine issue of material fact. See *Emerson v. Novartis Pharm. Corp.*, 446 F. App'x 733, 736 (6th Cir. 2011) (“[J]udges are not like pigs, hunting for truffles’ that might be buried in the record.”)(quoting *United States v. Dunkel*, 927 F.2d 955, 956 (7th Cir. 1991)); *Wimbush v. Wyeth*, 619 F.3d 632, 638 n. 4 (6th Cir. 2010)(stating that a party must “point to the evidence with specificity and particularity . . . rather than just dropping a pile of paper on the district judge’s desk and expecting him to sort it out.”). For the reasons the Magistrate Judge articulates in the Report and Recommendation, Defendant Bailey is entitled to summary judgment.

ACCORDINGLY, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge (docket # 49) is approved and adopted as the opinion of the Court.

IT IS FURTHER ORDERED that Defendant Bailey's Motion for Summary Judgment (docket # 41) is **GRANTED**.

IT IS FURTHER ORDERED that for the same reasons that the Court dismisses the action, the Court discerns no good-faith basis for an appeal within the meaning of 28 U.S.C. § 1915(a)(3). *See McGore v. Wrigglesworth*, 114 F.3d 601, 611 (6th Cir. 1997).

IT IS FURTHER ORDERED that this action is **DISMISSED** in its entirety.

Dated: September 25, 2012

/s/ Robert J. Jonker
ROBERT J. JONKER
UNITED STATES DISTRICT JUDGE