

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DONALD HOWARD GARLAND,

Plaintiff,

Case No. 1:14-cv-865

v.

HON. ROBERT HOLMES BELL

WES SMIGIELSKI, et al.,

Defendants.

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

On August 26, 2015, Magistrate Judge Phillip J. Green issued a Report and Recommendation (“R&R”) (ECF No. 45) recommending that Defendants’ motions for summary judgment (ECF Nos. 26, 28) be granted on all of Plaintiff’s remaining claims. No objections have been filed, and the deadline for doing so has expired. The Court has reviewed the matter and concludes that the R&R correctly analyzes the issues and makes a sound recommendation. Accordingly,

**IT IS HEREBY ORDERED** that the Magistrate Judge’s August 10, 2015, R&R (ECF No. 45) is **APPROVED** and **ADOPTED** as the Opinion of the Court.

**IT IS FURTHER ORDERED** that all claims that Plaintiff purports to bring on behalf of others are **DISMISSED** because he is proceeding *pro se* and cannot act in a representative capacity.

**IT IS FURTHER ORDERED** that Plaintiff's claim against the Benton Harbor Police Department is **DISMISSED** with prejudice because the Department is not a legal entity capable of being sued.

**IT IS FURTHER ORDERED** that Defendants' motions for summary judgment (ECF Nos. 26, 28) are **GRANTED** on all of Plaintiff's remaining claims.

**IT IS FURTHER ORDERED** that an appeal would not be taken in good faith.

A judgment will be entered that is consistent with this order.

Dated: September 15, 2015

/s/ Robert Holmes Bell  
ROBERT HOLMES BELL  
UNITED STATES DISTRICT JUDGE