

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

DANIEL I. THODY and WALTER-ELIYAH
THODY,

Defendants.

Case No. 1:19-cv-339

HON. JANET T. NEFF

MEMORANDUM OPINION AND ORDER

Now pending before the Court in this civil action are Defendants' Objections (ECF Nos. 150 & 155) to the Magistrate Judge's January 25, 2021 Report and Recommendation (R&R, ECF No. 147). The United States filed responses to the objections (ECF Nos. 153 & 158). Defendant Walter-Eliyah Thody (Walter) has also filed a "Motion for reasonable response times and reversal of orders predicated on presumed waivers" (ECF No. 149) and a "Motion for rational and reasonable standards of conduct" (ECF No. 156). The United States filed responses to the motions (ECF Nos. 151 & 159). For the following reasons, the Court denies Defendants' objections and denies Walter's motions.

The United States initiated this action on May 1, 2019 against Walter and his son, Daniel I. Thody (Daniel), to reduce certain federal tax liabilities to a judgment against Daniel (Count I) and to enforce federal tax liens against property titled in Daniel's name located in Newaygo County, Michigan, against which Walter had recorded a purported security interest for \$950,000

(Count II) (Compl. [ECF No. 1] ¶¶ 7, 12 & 17-18). The United States filed an Amended Complaint on January 28, 2020 (ECF No. 51).

In her January 25, 2021 Report and Recommendation, the Magistrate Judge recommends that this Court grant Plaintiff's Motion for Discovery Sanctions pursuant to Federal Rule of Civil Procedure 37(b)(2) against Walter (ECF No. 131) and enter a default judgment against Walter finding that "he has no right, title, claim, lien, or interest in the real property that is the subject of this suit" (R&R, ECF No. 147 at PageID.670).

An objection to a magistrate judge's report and recommendation must "specifically identify the portions of the proposed findings, recommendations, or report to which objections are made and the basis for such objections." W.D. Mich. LCivR 72.3(b). The court reviews de novo "those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*

Even assuming arguendo that Daniel may properly object to the sanction recommended against his father for Walter's multiple discovery failures, neither Daniel nor Walter identify any factual or legal error by the Magistrate Judge in her analysis. Rather, Defendants' objections merely demonstrate their disagreement with the sanction recommended by the Magistrate Judge. The Court determines that the Magistrate Judge applied the proper motion standard and carefully considered the record in selecting the default-judgment sanction. Therefore, the Court denies the objections and approves and adopts the Report and Recommendation.

Consequently, the Court also denies Walter's "Motion for reasonable response times and reversal of orders predicated on presumed waivers" (ECF No. 149) and "Motion for rational and reasonable standards of conduct" (ECF No. 156), which similarly sought "rational justice" and "reversal" of the Magistrate Judge's recommendation.

Accordingly:

IT IS HEREBY ORDERED that Defendants' Objections (ECF Nos. 150 & 155) are DENIED and the January 25, 2021 Report and Recommendation of the Magistrate Judge (ECF No. 147) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that Plaintiff's Motion for Discovery Sanctions pursuant to Federal Rule of Civil Procedure 37(b)(2) against Defendant Walter-Elijah Thody (ECF No. 131) is GRANTED for the reasons stated in the Report and Recommendation, and Default Judgment is ENTERED against Defendant Walter-Elijah Thody finding that he has no right, title, claim, lien, or interest in the real property that is the subject of this suit.

IT IS FURTHER ORDERED that Defendant Walter-Elijah Thody's "Motion for reasonable response times and reversal of orders predicated on presumed waivers" (ECF No. 149) and "Motion for rational and reasonable standards of conduct" (ECF No. 156) are DENIED.

Dated: March 29, 2021

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge