

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION

DONTA SMITH,

Petitioner,

Case No. 3:10 CV 1913

-vs-

KEITH SMITH,

MEMORANDUM OPINION
AND ORDER

Respondent.

KATZ, J.

This action was transferred to the United States Magistrate Judge for a Report and Recommendation. The Magistrate Judge filed his Report and Recommendation on June 27, 2011 (Doc. No. 8). Under the relevant statute:

Within ten days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

28 U.S.C. § 636(b)(1)(C) (1982). In this case, the ten-day period has elapsed and no objections have been filed. The failure to file written objections to a Magistrate Judge's report and recommendation constitutes a waiver of a *de novo* determination by the district court of an issue covered in the report. Thomas v. Arn, 728 F.2d 813 (6th Cir. 1984) affirmed, 474 U.S. 140 (1985); see United States v. Walters, 638 F.2d 947 (6th Cir. 1981).

No objections have been filed and the Court has reviewed said Report and Recommendation, the findings and recommendations contained therein, and the record in this case. The findings and recommendations of the Magistrate Judge are well taken and there are no legal points which would be arguable on their merits in an appeal of this case.

It is therefore,

ORDERED, that the Report and Recommendation be, and hereby is, adopted as the Order of this Court. Defendants' motion to dismiss (Doc. No. 6) is denied.

S/ David A. Katz
DAVID A. KATZ
U. S. DISTRICT JUDGE