

PEARSON, J.

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF OHIO
 EASTERN DIVISION

JOSEPH MATTEW BORDERS,)	
)	CASE NO. 4:11cv1514
Plaintiff,)	
)	
v.)	JUDGE BENITA Y. PEARSON
)	
HARLEY J. LAPPIN, <i>et al.</i> ,)	
)	<u>MEMORANDUM OF OPINION AND</u>
Defendants.)	<u>ORDER</u> [Regarding ECF No. 51]

On November 6, 2013, Magistrate Judge George J. Limbert issued a Report (“R&R”) recommending that the motion to dismiss filed by Defendant Gary Bullock ([ECF No. 47](#)) be granted, thereby dismissing *pro se* Plaintiff’s individual capacity *Bivens* claims without prejudice for failure to exhaust administrative remedies and dismissing the official capacity *Bivens* claims with prejudice based upon sovereign immunity.

The Federal Magistrates Act requires a district court to conduct a *de novo* review only of those portions of a report and recommendation to which the parties have made an objection. [28 U.S.C. § 636\(b\)\(1\)\(C\)](#). Parties must file any objections to a report and recommendation within 14 days of service. *Id.*; [Fed. R. Civ. Pro. 72\(b\)\(2\)](#). Failure to object within this time waives a party’s right to appeal the district court’s judgment. [Thomas v. Arn, 474 U.S. 140, 145 \(1985\)](#); [United States v. Walters, 638 F.2d 947, 949-50 \(6th Cir. 1981\)](#). Absent objection, a district court may adopt a magistrate judge’s report without review. *See Thomas, 474 U.S. at 149.*

In the instant case, objections to the R&R were due by November 23, 2013. Plaintiff has

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not filed an objection. The Court finds that the R&R is supported by the record, and agrees with the magistrate judge's recommendation.

Accordingly, the Court adopts the R&R ([ECF No. 51](#)). Plaintiff's individual capacity *Bivens* claims are dismissed without prejudice, and his official capacity *Bivens* claims are dismissed with prejudice. Furthermore, the Court certifies, pursuant to [28 U.S.C. § 1915\(a\)\(3\)](#), that an appeal from this decision could not be taken in good faith.

IT IS SO ORDERED.

November 27, 2013
Date

/s/ Benita Y. Pearson
Benita Y. Pearson
United States District Judge