

**UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF
MICHIGAN, SOUTHERN DIVISION**

Devonte Ross v. Thomas Anderson

Ross · No. 2:23-cv-11785 · Decided February 12, 2026

OPINION

UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MICHIGAN SOUTHERN DIVISION DEVONTE ROSS, Plaintiff, Case Number 23-11785 v. Honorable David M. Lawson Magistrate Judge Elizabeth A. Stafford THOMAS ANDERSON, Defendant.
_____/ ORDER ADOPTING REPORT AND RECOMMENDATION, SETTING ASIDE DEFAULT, DENYING MOTION FOR DEFAULT JUDGMENT, DISMISSING COMPLAINT FOR FAILURE TO PROSECUTE, AND DENYING MOTION TO DISMISS AS MOOT Plaintiff Devonte Ross, a Michigan prisoner, filed a complaint alleging that he was injured by a botched dental procedure at the hands of a prison dentist.

The Court referred the case to Magistrate Judge Elizabeth A. Stafford to conduct pretrial proceedings. The Clerk entered a default against dentist Thomas Anderson, but eventually he filed a motion to set it aside, alleging that he never was served properly. He also pointed out that the complaint was filed out of time, that is, beyond the statute of limitations deadline, and moved to dismiss the case.

Judge Stafford ordered Ross to respond to the defendants' motions. When he failed to do that, she ordered him to show cause why the case should not be dismissed. On January 21, 2026 Judge Stafford filed a report under 28 U.S.C. § 636(b) recommending that the Court grant Anderson's motion to set aside the default entered by the Clerk (ECF No. 47), deny plaintiff Devonte Ross's motion for default judgment against Anderson (ECF No. 39), dismiss the amended complaint with prejudice on the Court's own motion for failure to prosecute, and deny as moot defendant Anderson's motion to dismiss (ECF No. 48).

Judge Stafford recommended that the default against Anderson be set aside, and the plaintiff's motion for default judgment be denied, because Anderson was not served properly with the amended complaint and had a meritorious statute-of-limitations defense against the allegations in the amended complaint. Judge Stafford also recommended that the amended complaint be dismissed for failure to prosecute, pursuant to Civil Rule 41(b), because the plaintiff failed to respond to Anderson's motions, failed to notify the Court of his new address after being released from prison, and failed to respond to Judge Stafford's order to show cause why the case should not be dismissed.

The deadline for filing objections to the report has passed, and the plaintiff has not objected to the recommended disposition. The plaintiff's failure to file objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the matter.

Thomas v. Arn, 474 U.S. 140, 149 (1985). Accordingly, it is ORDERED that the report and recommendation (ECF No. 54) is ADOPTED, defendant Thomas Anderson's motion to set aside default (ECF No. 47) is GRANTED, the default against Anderson is SET ASIDE, the plaintiff's motion for default judgment against Anderson (ECF No. 39) is DENIED, the amended complaint is DISMISSED WITH PREJUDICE for failure to prosecute, and Anderson's motion to dismiss (ECF No. 48) is DENIED as moot. s/David M. Lawson DAVID M. LAWSON United States District Judge Dated: February 12, 2026