IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v. **Case 2:08-cr-20138-STA-cgc**

ANTONIO CLIFTON,

Defendant.

REPORT AND RECOMMENDATION ON DEFENDANT'S MOTION TO SUPPRESS STATEMENTS

Before the Court is Defendant Antonio Clifton's Motion to Suppress Statements. (Docket Entry "D.E." #85).[1] The instant motion was referred to United States Magistrate Judge Charmiane G. Claxton for Report and Recommendation. (D.E. #88). The Magistrate Judge held a hearing on the instant motion on March 31, 2011.[2] For the reasons set forth herein, the Court RECOMMENDS that Defendant's Motion to Suppress Statements be DENIED.

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[1] Defendant previously filed a Motion to Suppress (D.E. #46), which is still pending before the District Court but was not referred to the Magistrate Judge. The instant motion recites verbatim Defendant's earlier claims that his statements were involuntarily given in violation of his Fifth Amendment rights against self-incrimination and to due process. The United States has filed a Notice of its intent to rely upon its responses to the initial Motion (D.E. #63, #64).

[2] Following the March 31, 2011 hearing on the instant motion, Defendant requested additional time to gather further proof and possibly recall a witness. On July 12, 2011, Defendant informed the Court that he did not seek to present further proof. (D.E. #117, #118). Accordingly, the Court established a schedule for post-hearing briefings that ultimately required Defendant's brief to be filed by August 19, 2011 and the United States's brief to be filed by September 2, 2011.

I. Proposed Findings of Fact

On March 3, 2008 at approximately 2:00 to 2:30 p.m., officers with Drug Response Team Seven of the Memphis Police Department Organized Crime Unit executed a search warrant at 2307 Hubbard in Memphis, Tennessee. (Transcript of March 31, 2011 Hearing "Tr." at 9-11, 47-49, 67 & Exh. 1). Approximately six officers, including Detective Star Handley, approached the front door of the residence and proceeded to knock, announce their presence, and make a forced entry. (Tr. at 12, 14, 49-50). Detective Daniel Washington was assigned to "rear security," which entails observing the back of the residence "[i]n case someone tries to run out the back or if any sort of incident happens in the back of the house where the team is in the front and they're not going to be aware of anything going on in the rear." (Tr. at 12-13). The back yard of the residence was enclosed by a solid, wood fence that was taller than Detective Washington's height, so he pulled himself up onto the fence and held onto it to be able to look over it as the other officers made entry into the residence. (Tr. at 15, 33).

After Detective Washington heard the other officers make entry, he saw Defendant exit the rear of the residence onto the porch with a plastic bag in his possession. (Tr. at 15, 31, 33-34). Defendant "started to go back in for a second," but apparently "changed his mind." (Tr. at 15). The plastic bag ripped and "a lot of money . . . spilled out." (Tr. at 15). Detective Washington ordered Defendant to stop, but he did not obey and began to run through his back yard. (Tr. at 15-16, 34). Detective Washington radioed to the other officers that Defendant had exited the residence and then initiated a pursuit of the Defendant on foot. (Tr. at 15-16, 73). Despite his concern of a several pit bulls in the residence's backyard, which he could not "tell if they were chained up or not," Detective Washington jumped the fence into the residence's backyard and followed Defendant. (Tr. at 16).

The other officers stayed at the residence because their "first priority is to clear the residence and make sure there's no one else inside of it." (Tr. at 74). While inside the residence, the officers noticed the open rear door where Defendant had apparently fled. (Tr. at 72).

As Detective Washington was approaching the fence at the back of the yard, Defendant had "made his way over" it, had fallen, and had "dropped the plastic bag he was carrying." (Tr. at 16). Detective Washington observed that "[m]oney was flying everywhere." (Tr. at 16). Detective Washington then noticed that immediately behind the fence of the residence's backyard was a second fence of the neighbor's yard. (Tr. at 16). Defendant was making his way over this fence and fell into his neighbor's flower bed as an "older couple were doing work." (Tr. at 17). Detective Washington followed Defendant over this second fence, to the right of the neighbor's house, down the driveway, and then to the right onto the street. (Tr. at 17). Detective Washington "keyed up over the radio" for backup but he accidentally "gave the wrong direction." (Tr. at 17). Detective Washington pursued Defendant for the distance of approximately four more houses and then continued in the same direction in between a few other houses. (Tr. at 17). Defendant "fell a few times trying to knock down garbage cans" into Detective Washington's path, which Detective Washington believed Defendant was doing in an attempt to slow him down. (Tr. at 17-18). After approximately one to three minutes of pursuit, Defendant quit running. (Tr. at 18, 34, 74). Once Defendant stopped, Detective Washington drew his weapon to effectuate the arrest. (Tr. at 35-36).

Defendant did not face Detective Washington but did comply with Detective Washington's instructions to "put his hands up in the air" and "get on the ground"; however, once he laid down on the ground, Defendant "put his arm up under him." (Tr. at 18, 35-36). Detective Washington viewed this as a "negative" because he was concerned that Defendant may be armed and that he

risked the possibility of being "ambushed and shot." (Tr. at 19, 45). Although Detective Washington had not seen a weapon on Defendant's back or side during his pursuit, Detective Washington observed that "[t]he angle from his elbow . . . looked like it was in his waist band." (Tr. at 21, 34-35). In Detective Washington's experience, individuals usually carried weapons either "in the small of the back or crotch area." (Tr. at 21).

Based upon his concerns, Detective Washington kept his weapon drawn and pointed at Defendant, "kept a good safe distance," and instructed Defendant in a "pretty loud" voice "[a]t least probably four of five" times over twenty to thirty seconds to remove his hand from under his body, but Defendant did not comply. (Tr. at 20, 35-36, 44). This heightened Detective Washington's concerns because, in his experience, it is more common for individuals to be armed when they refuse to comply with orders to show him their hands. (Tr. at 22-23).

Detective Washington decided that he needed to approach Defendant in order to take him into custody, and to do so, he had to holster his weapon to be able to "get his other hand free" and to prevent Defendant from attempting to take his weapon. (Tr. at 39-40). Detective Washington proceeded to approach Defendant, took his arm that was not beneath his body, but "couldn't get his other arm." (Tr. at 20). Because he could not get Defendant to produce his other arm and because of his continued concerns for his safety in effectuating the arrest, Detective Washington struck Defendant with his "free hand" behind his ear to force him to comply. (Tr. at 24-25, 41, 45). Defendant exclaimed, "'I give up,'" waited a couple seconds, made his other hand available, and Detective Washington handcuffed him and rolled him over. (Tr. at 25, 37, 40-41, 51).

Approximately one minute after Defendant was handcuffed, the other officers "figured out" where Detective Washington was located on Golden Street and drove to his location. (Tr. at 25-26,

51. 74-75, 77). At that time, Detective Handley and Detective Teeters took custody of Defendant. (Tr. at 26, 51). Detective Washington patted Defendant down, and it was determined that he did not in fact have a gun or any kind of weapon in his waistband or on his person, although he did have currency on his person. (Tr. at 36, 51-52). Ultimately, Detective Handley placed Defendant into a police vehicle. (Tr. at 26). Although Detective Handley looked over Defendant at this time, he did not notice the injury behind his ear. (Tr. at 75-76).

Detective Handley and the other officers returned to the residence with Defendant in custody to complete the execution of the search warrant. (Tr. at 27, 42, 78). During its execution, Defendant was detained in the living room. (Tr. at 27, 76-79). When Detective Washington arrived at the residence, he did notice Defendant's injury from being struck, which he described as a "bruise or a small cut that was maybe two inches away from [Defendant's] ear." (Tr. at 28). Detective Washington further stated that there "was a breakage in the skin" that was bleeding a "small amount" as well as "bruising." (Tr. at 38). With respect to the amount of blood, Detective Washington stated that he "wouldn't call it anything equivalent of a nosebleed or anything like that." (Tr. at 38).

The search of the residence yielded "a fairly large amount" of narcotics—namely, "close to a pound" or "395 grams of crack cocaine" and "180 grams of powder cocaine." (Tr. at 53, 54). Detective Handley observed that, "[i]n the kitchen of the residence it appeared that narcotics had just recently been broken down inside of it in the garbage can." (Tr. at 52). Detective Handley explained that "breaking down" occurs whenever a "large sum of narcotics—kilogram quantities of narcotics—are brought to a location" and the narcotics are usually "broken down into smaller quantities." (Tr. at 52). Detective Handley stated that the residence had a "vacuum sealer," which

is "another instrument used to seal-up and breakdown narcotics into smaller quantities for resale." (Tr. at 53). Plastic baggies and boxes of baking soda, which is "used as a cutting agent to double the amount of cocaine," breathing masks, cards used to mix up cocaine with cocaine residue, and an ounce baggie of cocaine were also found in the kitchen. (Tr. at 53). In the garage, approximately three firearms were located in a bag inside the saddlebag of a Honda motorcycle. (Tr. at 53-54, 85). In the backyard, there were approximately three holes in the ground that contained "clear plastic bags filled with a white substance that tested positive for cocaine." (Tr. at 54). The search also yielded personal belongings of Defendant, electronics, medication, mail, photographs, clothing, and a holster for a firearm. (Tr. at 52, 54). Three vehicles, including two motorcycles and a Cadillac Escalade, were towed from the residence. (Tr. at 84).

After approximately an hour-and-a half to two-and-a-half hours, officers completed the execution of the search warrant. (Tr. at 28, 54, 67). Between 5:00 and 6:00 p.m., Detective Handley and Detective Teeters took Defendant to an interview room at the Organized Crime Unit Office at 225 Channel Three Drive, which is a common location for members of the Organized Crime Unit drug teams to take individuals for investigative purposes. (Tr. at 28, 67, 80 & Exh. 1). Defendant was provided his Miranda rights by Detective Handley, which included completing a Rights Waiver Form as well as an oral reading of his rights. (Tr. at 55-56, 81, 84). Subsequently, Defendant was asked if he understood his rights as they were explained to him, and Defendant advised that he did. (Tr. at 57). Defendant was also shown the Rights Waiver Form, which he signed and initialed. (Tr. at 57, 59-60).

Defendant was then asked if he wished to cooperate and assist in the investigation. (Tr. at 55-56, 87 & Exh. 1). Defendant stated that he did wish to make a statement at that time. (Tr. at 56

& Exh. 1). Defendant further advised that he "knew what was going on" because he was on supervised release and that he "knew what he had to do." (Tr. at 56). Defendant stated that he had served time in federal prison and did not want to spend "a significant time" there again. (Tr. at 61). Defendant also stated that he had "learned from others and learned from the amount of time you get if you don't cooperate and that it was beneficial for him to cooperate." (Tr. at 61). Detective Handley opined that Defendant "realized the nature and severity of what he was looking at[,]" especially as he had multiple felony convictions and was on supervised release, and "wanted to help himself" and avoid a "significant amount of jail time" that he might face if he did not cooperate. (Tr. at 55, 61, 68). Accordingly, Detective Handley and Detective Teeters proceeded to interview Defendant and take his statement. (Tr. at 56-57). Throughout Defendant's interview, he was allowed to go to the restroom, was given the opportunity to eat and drink, and did elect to eat some food from the vending machine. (Tr. at 67-68, 87).

Upon taking Defendant's written statement, he was again advised of his Miranda rights, as is reflected in the text of the written statement. (Tr. at 57 & Exh. 1). The statement was typed, and Defendant signed it in Detective Handley's presence at 8:30 p.m. (Tr. at 58, 65, & Exh. 1). The statement provided "intimate details" in great detail as to how he acquired the narcotics, where and from whom he got the firearms, the prices he would pay for the narcotics, the prices for which he would distribute the narcotics. (Tr. at 60-61 & Exh. 1).

Specifically, Defendant admitted that he had been selling drugs "[o]ff and on" since he was fifteen years old, that he only sells cocaine and crack cocaine, that he utilizes the residence at 2307 Hubbard to do his "business of selling" drugs. (Tr. at Exh. 1). Defendant admitted that the narcotics, firearms, motorcycles, and vehicle found at the residence belonged to him, that he had

"[a]bout 15,000 to 16,000" in cash at the residence, and that about half of the money at the residence was proceeds from selling drugs while the other half was from "fixing cars." (Tr. at Exh. 1). Defendant also provided names of his suppliers, quantities he frequently purchased, and his method of using "junkies," "smoker[s]," and "crack head[s]" to "cook it up" to produce crack cocaine because, as he is "on federal paper," he did not "want that stuff in [his] system." (Tr. at Exh. 1). Defendant stated that he sells cocaine to "[a]bout six" individuals and that he earns "[a]bout $10,000 to 15,000" per month from selling cocaine, which he uses to pay his car note, motorcycle note, rent, bills and take care of his family. (Tr. at Exh. 1).

When asked to provide an account of what happened when law enforcement officers arrived at the residence earlier that day, Defendant stated as follows:

> I took the money and ran, I was sitting on the couch and I saw through the window that the police were coming and I jumped up and grabbed the bag of money off the couch and I ran out the back door and I jump[ed] a fence[,] fell down and then the officers caught me.

(Tr. at Exh. 1). When asked why he ran from the residence, Defendant replied, "[b]ecause I had all the money." (Tr. at Exh. 1). Defendant admitted that he was a convicted felon and was currently on supervised release at the time of this arrest. (Tr. at Exh. 1). At the conclusion of his statement, Defendant affirmed that he provided it of his "own free will, without threats, promises, or coercion from anyone." (Tr. at Exh. 1).

After Defendant's statement was complete, Defendant "attempted to make some phone calls to try to arrange for him to purchase narcotics," but this was not successful because others involved had already found out that Defendant had been arrested. (Tr. at 62-63). Additionally, Detective Handley placed Defendant in an unmarked vehicle and, along with another officer, they drove Defendant around to allow him to shown them "the residences of individuals that he knew as

narcotic dealers that he had bought narcotics from before." (Tr. at 68, 81, 88-89). After this was complete, Detective Handley asked Defendant if he was hungry, to which Defendant responded that he would like to eat. (Tr. at 68). Officers provided Defendant a Wendy's fast food "combo meal," which he ate as he was transported to the jail. (Tr. at 68, 90-91). Detective Handley stated that, throughout the lengthy period of time he spent with Defendant, he never noticed any injury. (Tr. at 88). Detective Handley stated that at no time while Defendant was in his custody did he request medical treatment. (Tr. at 69). Detective Handley further affirmed that he never instructed Defendant at any point that, if he cooperated, he would receive medical treatment. (Tr. at 68).

Before the booking process at the jail is deemed to be complete, a nurse is required to "inspect every prisoner." (Tr. at 69, 91). Anyone who is significantly injured or who requests any medical attention will not be booked into the jail but are required to be transported to the hospital. (Tr. at 69-70, 92). Defendant was not required to be taken to the hospital and was booked directly into the jail. (Tr. at 70). Defendant was also examined on March 4, 2008 upon his request for "stitches." (Gov't Response to Mot. to Suppress, filed at D.E. #62, at Exh. 2). He was determined to have a "superficial laceration" on the right side of his head, which was approximately one inch long, was not through to subcutaneous tissue, and was "clean—not bleeding." (Gov't Response to Mot. to Suppress, filed at D.E. #62, at Exh. 2).

II. Proposed Conclusions of Law

A. Voluntary Waiver of Miranda Rights

Defendant contends that even though he was properly advised of his Miranda rights, he was unable to voluntarily waive his rights due to the injuries sustained in his arrest. The Fifth Amendment to the United States Constitution prohibits an individual from being "compelled in any

criminal case to be a witness against himself." U.S. Const. amend. V. Under Miranda v. Arizona, 384 U.S. 436, 479 (1966), an individual that is "taken into custody or otherwise deprived of his freedom by the authorities in any significant way and is subjected to questioning" must be provided information on the following "[p]rocedural safeguards" to protect his privilege against self-incrimination:

> He must be warned prior to any questioning that he has the right to remain silent, that anything he says can be used against him in a court of law, that he has the right to the presence of an attorney, and that if he cannot afford an attorney one will be appointed for him prior to any questioning if he so desires.

Id.; see also Duckworth v. Eagan, 492 U.S. 195, 201 (1989).

A suspect may elect to waive his Miranda rights if the waiver is made "voluntarily, knowingly and intelligently." 384 U.S. at 444. The inquiry into whether a proper waiver was made has "two distinct dimensions." Moran v. Burbine, 475 U.S. 412, 421 (1986):

> First, the relinquishment of the right must have been voluntary in the sense that it was the product of a free and deliberate choice rather than intimidation, coercion, or deception. Second, the waiver must have been made with a full awareness of both the nature of the right being abandoned and the consequences of the decision to abandon it. Only if the "totality of the circumstances surrounding the interrogation" reveal both an uncoerced choice and the requisite level of comprehension may a court properly conclude that the Miranda rights have been waived.

Id. (quoting Fare v. Michael C., 442 U.S. 707, 725 (1979)).[3]

With respect to voluntariness, the Sixth Circuit has established three requirements for a finding that a confession was involuntary due to police coercion: (1) the police activity was objectively coercive; (2) the coercion in question was sufficient to overbear the defendant's will;

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[3] Defendant does not challenge that his waiver was not knowingly and intelligently provided. Upon review of the record, the Court finds that Defendant did knowingly and intelligently waive his rights under Miranda.

and (3) the alleged police misconduct was the crucial motivating factor in the defendant's decision to offer the statement. United States v. Mahan, 190 F.3d 416, 422 (6th Cir. 1999) (citing United States v. Dutton, 863 F.3d 454, 459 (6th Cir. 1988)). "In determining whether a confession has been elicited by means that are unconstitutional, this court looks to the totality of the circumstances concerning whether a defendant's will was overborne in a particular case." Mahan, 190 F.3d at 422 (citing Ledbetter v. Edwards, 35 F.2d 1062, 1067 (6th Cir. 1994) (internal quotations omitted). Relevant factors may include "the age of the accused, his level of education and intelligence, his physical condition and emotional state at the time of the confession, his expressed fears of violent reprisals, actual physical punishment, the proximity of the coerciveness of the confession as given, and the inherent coerciveness of the confession as given." United States v. Wrice, 954 F.2d 406, 411 (6th Cir. 1992). Courts may also consider the defendant's prior experience in the criminal justice system in determining whether his will was overborne. Ledbetter, 35 F.2d at 1070.

Upon review, the Court finds that Defendant's statement was voluntarily given for purposes of Miranda. Although it is true that Detective Washington was required to utilize force in effectuating the arrest of Defendant, which was a result of Defendant's own flight and refusal to comply with Detective Washington's instructions, this brief and minor altercation resulted only in a small cut and bruise behind Defendant's ear. After this occurred, approximately two-and-a-half to three-and-a-half hours passed between when Defendant was arrested by Detective Washington and when he was questioned by Detective Handley and Detective Teeters. This substantial length of time between the only forcible police conduct and the ultimate confession is particularly compelling as to the question of the proximity of any alleged coerciveness.

Further, the record is devoid of any other factual bases for the Court to find that Defendant's

confession was coerced. The record does not contain any express fears of violent reprisals or actual or threatened physical punishment in connection with Defendant's confession. Further, the record contains clear evidence of what apparently motivated Defendant, namely his desire to minimize the punishment he would receive for his offenses. This evidence is particularly compelling given Defendant's experience with the criminal justice system and his subjective fear that he was facing significant punishments based upon his prior criminal record. Most tellingly, the record contains Defendant's own affirmation that his statements were provided it of his "own free will, without threats, promises, or coercion from anyone." Accordingly, the Court finds that Defendant's statement was voluntarily given and that no Miranda violation occurred.

B. Due Process

Next, Defendant asserts that his due process rights were violated by the police conduct in taking his statement while "in dire need of medical treatment, while said treatment was being denied or withheld." Defendant claimed that he would be able to establish that medical treatment was withheld from him to induce a confession and that, but for this official coercion, he would never have forfeited his right against self-incrimination.

The Due Process Clause of the Fourteenth Amendment provides that no State shall "deprive any person of life, liberty, or property, without due process of law." U.S. Const., amend. XIV. With respect to confessions, the critical inquiry is under the Due Process Clause is whether the confession was voluntarily given. Threshold to that determination is the requirement that the police did not extort the confession from the accused by means of coercive activity. McCall v. Dutton, 863 F.2d 454, 459 (6th Cir. 1988). Such "coercive police activity is a necessary predicate" to any finding that a confession is not voluntary for purposes of due process. Colorado v. Connelly, 479 U.S. 157, 167

(1986). "Absent police conduct causally related to the confession, there is simply no basis for concluding that any state actor has deprived a criminal defendant of due process of law." Id. at 164. If it is established that coercive police activity was causally related to a defendant's confession, two further findings must be made before a due process violation may be found. McCall, 863 F.2d at 459. First, it is "necessary to examine [defendant's] state of mind to determine whether the 'coercion' in question was sufficient to overbear the will of the accused." Id. Second, defendant must prove that his will was in fact overbore because of the coercive police activity. Id. If any police misconduct at issue was not the "crucial motivating factor" behind a defendant's decision to confess, the confession may not be suppressed. Id (quoting Connelly, 479 U.S. at 163).

Upon review, the Court finds that the record does not reflect that any coercive police activity resulted in Defendant's confession. Although Defendant's Motion alleges that he would be able to establish that he was denied medical attention by law enforcement officers, the record is devoid of any such evidence. On the contrary, the record reflects that Defendant had a minor injury from his arrest, that Defendant never requested medical attention, that a period of several hours passed between the arrest and the later interview, and that Defendant was in good medical condition to be booked into the jail. Additionally, Defendant affirmed at the time of his confession that he provided the statement of his "own free will, without threats, promises or coercion."

Although the Supreme Court has held that a denial of medical attention by law enforcement officers and a defendant's "intense pain," along with other factors, may rise to the level of a due process violation, see Reck v. Pate, 367 U.S. 433 (1961), such a conclusion is not appropriate in a case where there is absolutely no factual support that any coercive police activity occurred whatsoever, especially with any causal relationship to the confession. This conclusion is not altered

by the mere fact that Defendant suffered a minor injury earlier in the day during his arrest, especially as the injury was not a result of wanton or unwarranted force by Detective Washington in an attempt to elicit a confession, but instead due to Defendant's own flight, his refusal to cooperate with the arresting officer, and his actions in disobedience of Detective Washington's orders that concerned him for his own safety. See McCall, 863 F.2d at 459-60 (holding that officers' display of weapons during an arrest was merely a protective measure against a fleeing felon rather than an attempt to extort a confession by coercive means and that an injury or weakened stated at the time of arrest is not sufficient to find a due process violation absent coercive police activity aimed at exhorting a confession). Thus, the Court finds that Defendant's due process claim fails the first prong of the analysis.

Even assuming, *arguendo*, that Defendant had established that coercive police activity had occurred, his claim would additionally fail the remaining two prongs. With respect to whether Defendant's will was actually overborne by police conduct, the Court must look to Defendant's mental state and his stated intentions of confessing. The record reflects that Defendant was thirty-three-years old, had two years of college education at a technical institute, was gainfully employed performing automobile body work, and had substantial experience with the criminal justice system. In circumstances where a defendant can neither be said to be "young, soft, ignorant, or timid," "inexperienced in the ways of crime or its detection," or "dumb as to [his] rights," the Supreme Court has concluded that this weighs against the conclusion that Defendant's will was overborne by police action. See Reck, 367 U.S. at 443 (quoting Stein v. People of State of New York, 346 U.S. at 185). He had only been in custody for approximately six hours in the afternoon and evening at the time he completed his statement, and thus he was not subjected to any prolonged interrogation

or other coercive measures. See Reck, 367 U.S.

Likewise, Defendant has failed to establish that his will was in fact overborne by the allegedly coercive police activity. Instead, the record reflects that Defendant clearly stated the subjective reasons for his confession to Detective Handley—namely, he feared that he faced substantial punishment based upon his status as a convicted felon on supervised release and based upon the incriminating fruits of the search warrant. His stated intent is consistent with the extensive, detailed nature of his statement, his acceptance of responsibility. Accordingly, the Court concludes that Defendant's statement was voluntarily given and no due process violation occurred.

III. Conclusion

For the reasons set forth herein, the Court RECOMMENDS that Defendant's Motion to Suppress be DENIED.

DATED this 22nd day of September, 2011.

s/ Charmiane G. Claxton
CHARMIANE G. CLAXTON
UNITED STATES MAGISTRATE JUDGE

ANY OBJECTIONS OR EXCEPTIONS TO THIS REPORT MUST BE FILED WITHIN FOURTEEN (14) DAYS AFTER BEING SERVED WITH A COPY OF THE REPORT. 28 U.S.C. § 636(b)(1)(C). FAILURE TO FILE THEM WITHIN FOURTEEN (14) DAYS MAY CONSTITUTE A WAIVER OF OBJECTIONS, EXCEPTIONS, AND ANY FURTHER APPEAL.