

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

ARIEL MONROE,

Plaintiff,

v.

1:15-cv-1165-WSD

**CITY OF FOREST PARK,
GEORGIA,**

Defendant.

OPINION AND ORDER

This matter is before the Court on Magistrate Judge Catherine M. Salinas' Non-Final Report and Recommendation [21] ("R&R"). The Magistrate Judge recommended that Defendant City of Forest Park, Georgia's ("Defendant") Motion to Partially Dismiss [4] be denied as moot because Plaintiff Ariel Monroe ("Plaintiff") filed an amended complaint.

I. BACKGROUND

On April 14, 2015, Plaintiff filed her Complaint [1] against Defendant, alleging that Defendant discriminated against her on the basis of her disability in violation of the Rehabilitation Act and the Americans with Disabilities Act ("ADA"). (Compl. ¶ 1). On June 12, 2015, Defendant filed its Motion to Partially

Dismiss, seeking dismissal of Plaintiff's claims under the Rehabilitation Act and her failure-to-accommodate claim under the ADA.

On June 24, 2015, Plaintiff filed her Amended Complaint [5], which does not contain any claims under the Rehabilitation Act, or a claim for failure-to-accommodate claim under the ADA. On October 30, 2015, the Magistrate Judge recommended that the Motion to Partially Dismiss be denied as moot because the Amended Complaint supersedes the original Complaint. (R&R at 3-4). Defendant did not file any objections to the R&R.

II. DISCUSSION

A. Legal Standard

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject, or modify a magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); Williams v. Wainwright, 681 F.2d 732 (11th Cir. 1982), cert. denied, 459 U.S. 1112 (1983). A district judge "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). With respect to those findings and recommendations to which objections have not been asserted, the Court must conduct a plain error review of the record. United States v. Slay, 714 F.2d 1093,

1095 (11th Cir. 1983), cert. denied, 464 U.S. 1050 (1984). Defendant did not object to the R&R and the Court thus reviews it for plain error.

B. Analysis

The Magistrate Judge found that the Amended Complaint supersedes the original Complaint, rendering the Motion to Partially Dismiss, which sought to dismiss claims contained in the Complaint, moot. (R&R at 3-4). The Court finds no plain error in the Magistrate Judge’s findings and recommendation. See Slay, 714 F.2d at 1095; see also, e.g., Sheppard v. Bank of Am., NA, No. 1:11-CV-4472-TWT, 2012 WL 3779106, at *4 (N.D. Ga. Aug. 29, 2012); see also Lowery v. Ala. Power Co., 483 F.3d 1184, (11th Cir. 2007) (“[A]n amended complaint supersedes the initial complaint and becomes the operative pleading in the case.”).

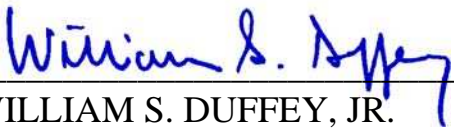
III. CONCLUSION

For the foregoing reasons,

IT IS HEREBY ORDERED that Magistrate Judge Catherine M. Salinas’ Non-Final Report and Recommendation [21] is **ADOPTED**.

IT IS FURTHER ORDERED that Defendant City of Forest Park, Georgia’s Motion to Partially Dismiss [4] is **DENIED AS MOOT**.

SO ORDERED this 10th day of November, 2015.



WILLIAM S. DUFFEY, JR.
UNITED STATES DISTRICT JUDGE