

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



STONEY HARRISON,

v.

18-CV-821 (JLS) (LGF)

KELLI BRODERICK, STEPHANY
MILLER, JAMES JOHNSON, BISHME
NELSON, FREDERICK KINTZEL,
AND KEVIN BROWN,

Defendants.

DECISION AND ORDER

Plaintiff Stoney Harrison commenced this action on July 27, 2018. Dkt. 1. Pursuant to an Order issued by District Judge Lawrence J. Vilaro on January 14, 2020 (Dkt. 11), Plaintiff filed an Amended Complaint on February 3, 2020. Dkt. 13. The Amended Complaint asserts claims under 42 U.S.C. § 1983 and alleges that Defendants violated his rights under the First Amendment and the Religious Land Use and Institutionalized Persons Act (“RLUIPA”) in confiscating his religious pendant. *Id.*

On February 7, 2020, Judge Vilaro issued an Order dismissing Plaintiff’s claims for money damages against Defendants in their official capacities as barred by Eleventh Amendment immunity. Dkt. 14. The case was reassigned to the undersigned on September 15, 2020. Dkt. 21. On September 16, 2020, this Court referred the case to United States Magistrate Judge Leslie G. Foschio for all proceedings under 28 U.S.C. §§ 636(b)(1)(A), (B), and (C). Dkt. 22.

On October 14, 2021, Defendants filed a Motion for Judgment on the Pleadings. Dkt. 31. Plaintiff opposed the motion, and Defendants replied. Dkt. 33, 34. On August 18, 2022, Judge Foschio issued a Report and Recommendation (“R&R”) recommending that this Court grant Defendants’ motion (Dkt. 31) and dismiss the Amended Complaint with prejudice and without leave to amend. Dkt. 36. On September 12, 2022, Plaintiff objected to the R&R. Dkt. 39. Defendants responded to the objections, and Plaintiff replied. Dkt. 41, 42.

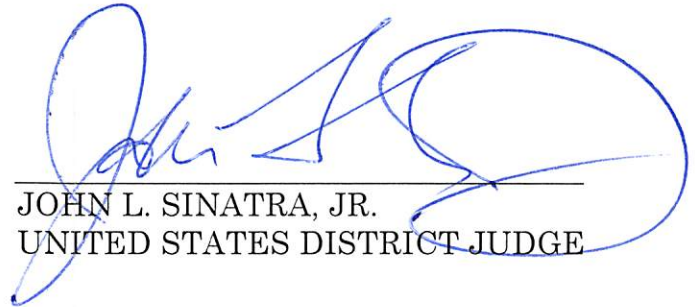
A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge’s recommendation to which a party objects. See 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149–50 (1985).

This Court carefully reviewed the R&R, the objection, response, and reply, and the materials submitted by the parties. Based on its *de novo review*, the Court accepts Judge Foschio’s recommendation.

For the reasons stated above and in the R&R, the Court GRANTS Defendants' Motion (Dkt. 31). As a result, the Amended Complaint is DISMISSED without leave to amend.

SO ORDERED.

Dated: November 8, 2022
Buffalo, New York



JOHN L. SINATRA, JR.
UNITED STATES DISTRICT JUDGE