

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DOROTHY FRANCIS RIPLEY,

Plaintiff,

v.

18-CV-941

DECISION AND ORDER

CITY OF OLEAN, NEW YORK,

Defendant.

On August 24, 2018, the *pro se* plaintiff, Dorothy Francis Ripley, commenced this action. Docket Item 1. On October 25, 2018, the defendant moved to dismiss. Docket Item 3. On October 26, 2018, this Court referred this case to United States Magistrate Judge Jeremiah J. McCarthy for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Docket Item 4. On November 26, 2018, Ripley responded to the defendant's motion to dismiss, Docket Item 6; and on December 7, 2018, the defendant replied, Docket Item 8. On January 14, 2019, Judge McCarthy issued a Report and Recommendation ("R&R") finding that the defendant's motion should be granted. Docket Item 9. The parties did not object to the R&R, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

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. 28 U.S.C. § 636(b)(1); 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).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge McCarthy's R&R as well as the parties' submissions to him. Based on that review and the absence of any objections, the Court accepts and adopts Judge McCarthy's recommendation to grant the defendant's motion to dismiss.

For the reasons stated above and in the R&R, the defendant's motion to dismiss, Docket Item 3, is GRANTED; the complaint, Docket Item 1, is dismissed; and the Clerk of the Court shall close the file.

SO ORDERED.

Dated: September 13, 2019
Buffalo, New York

s/ Lawrence J. Vilaro
LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE