

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

SHARON ELAINE ALLEN HOLMES,

Plaintiff,

vs.

STATE OF UTAH, Department of
Workforce Services,

Defendant.

MEMORANDUM DECISION AND
ORDER ADOPTING REPORT AND
RECOMMENDATION AND
DISMISSING CASE

Case No. 2:06-CV-786 TS

This matter is before the Court for review of the Magistrate Judge's February 11, 2009 Report & Recommendation. In a thorough and detailed 16-page Report and Recommendation, the Magistrate set forth the reasons why there were no genuine issues of material fact on either of Plaintiff's claims and why judgment should be granted as a matter of law in favor of Defendant.¹

The Report and Recommendation notified Plaintiff she had ten days to file an objection to the Report and Recommendation and that the failure to file an objection may

¹Docket No. 26.

constitute waiver of those objections on appellate review. Plaintiff has not filed any objection.

If, as in this case, there is no objection to the Report and Recommendation, the Court applies the “clearly erroneous” standard.² Under the clearly erroneous standard, this Court will affirm the Magistrate Judge’s ruling “unless it ‘on the entire evidence is left with the definite and firm conviction that a mistake has been committed.’”³

Having reviewed the Report & Recommendation, the Court finds it correctly states the applicable law. The Magistrate Judge’s findings regarding the lack of a genuine issue of fact are fully supported by the record. Applying the same legal standards as did the Magistrate Judge, the Court agrees that there are no issues of fact and Defendant is entitled to judgment as a matter of law. Further, having reviewed the Complaint and the record, the Court finds that it would reach the same conclusion under de novo review. Accordingly, it is therefore

ORDERED that the Magistrate Judge’s Report and Recommendation (Docket No. 26) is ADOPTED IN FULL. It is further


²28 U.S.C. § 636(b)(1) (requiring de novo review of only “those portions of the report or specified proposed findings or recommendations to which objection is made”) and Fed. R. Civ. P. 72(b) (3) (same).

³*Ocelot Oil Corp. v. Sparrow Industries*, 847 F.2d 1458, 1464 (10th Cir. 1988) (quoting *United States v. United States Gypsum Co.*, 333 U.S. 364, 395 (1948)).

ORDERED that Defendant's Motion For Summary Judgment (Docket No. 22) is GRANTED and judgment in favor of Defendant and against Plaintiff shall enter on all claims.

DATED March 6, 2009.

BY THE COURT:



TED STEWART
United States District Judge