

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

| | | |
|---------------------------|---|-------------------|
| NICHOLAS APONTE, | : | |
| Plaintiff, | : | |
| | : | |
| v. | : | 3:99-cv-847 (WWE) |
| | : | |
| EDWARD ARRINGTON, et al., | : | |
| Defendants. | : | |

RULING ON OBJECTION TO RULING BY MAGISTRATE JUDGE

Now pending before the Court is plaintiff Nicholas Aponte’s objection (Doc. #144) to the recommended ruling of Magistrate Judge Fitzsimmons dated March 17, 2009 (Doc. #141), which recommended that the Court grant defendants’ motion for summary judgment (Doc. #124). Upon de novo review, the Court will deny plaintiff’s objection and approve and adopt Magistrate Judge’s Fitzsimmons recommended ruling.¹

In her recommended ruling, Magistrate Judge Fitzsimmons carefully and thoroughly stated the factual history of this case. The Court will not recount the facts here.

Plaintiff objects to the Magistrate Judge’s recommended ruling on the grounds that her ruling failed to properly acknowledge the material issues of fact present that would preclude summary judgment.

DISCUSSION

A magistrate judge’s ruling on a dispositive matter is reviewed by the district judge de novo. 28 U.S.C. § 636(b)(1)(B); Fed. R. Civ. P. 72(b)(3). The court may

¹ There is a motion to substitute party defendants (Doc. #142) currently pending before the Court. This motion has been referred to Magistrate Judge Fitzsimmons and will not be addressed by the Court in this ruling.

adopt, reject, or modify, in whole or in part, a magistrate judge's recommended ruling. 28 U.S.C. § 636(b)(1); Fed R. Civ. P. 72(b).

The Court has reviewed Magistrate Judge Fitzsimmons' recommended ruling and plaintiff's objection thereto. The recommended ruling properly considered both the facts and applicable law and appropriately recommended that summary judgment be granted for defendants. Plaintiff has not offered any material facts supported by the evidence before the Court that would undermine the evidence presented by defendants in support of their motion. Simply making unsubstantiated challenges to defendants' evidence cannot defeat summary judgment. See Western World Ins. Co. v. Stack Oil, Inc., 922 F.2d 118, 121 (2d Cir. 1990) ("The non-movant cannot escape summary judgment merely by vaguely asserting the existence of some unspecified disputed material facts or defeat the motion through mere speculation or conjecture."); Meiri v. Dacon, 759 F.2d 989, 997 (2d Cir. 1985) (party cannot defeat summary judgment simply by making unsubstantiated attacks on movant's evidence); Regis v. Metropolitan Jewish Geriatric Ctr., 2000 U.S. Dist. LEXIS 2215 (E.D.N.Y. Jan. 11, 2000) (same). Accordingly, the recommended ruling of the Magistrate Judge will be approved and adopted, defendants' motion for summary judgment will be granted and plaintiff's objection to the Magistrate Judge's recommended ruling will be overruled.

