

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
CHARLES E. JONES, JR.,

Plaintiff,

- against -

FEDERAL BUREAU OF PRISONS, RAY BROOK, FCI
WARDEN, MR. PURDUE, PROPERTY OFFICER
(R&D), MR. REOME, UNITED STATES, U.S.
CUSTOMS N.E. REGIONAL DIRECTOR,

ORDER ADOPTING REPORT
AND RECOMMENDATION

11-CV-4733 (KAM) (MDG)

Defendants.

-----X
MATSUMOTO, United States District Judge:

Plaintiff Charles E. Jones, Jr., appearing *pro se* and *in forma pauperis*, brought this action on September 28, 2011 pursuant to 42 U.S.C. § 1983 and the Federal Tort Claims Act ("FTCA"), 28 U.S.C. § 2671 *et seq.* (Complaint, ECF No.1, 9/28/2011.) Plaintiff alleges his constitutional rights were violated when defendant Officer Mark Reome mailed plaintiff's personal property from the Federal Correctional Institution in Ray Brook to his sister, who was also plaintiff's designated agent. (*Id.*) On September 14, 2012, defendants filed a motion to dismiss on the pleadings pursuant to Federal Rule of Civil Procedure 12(c), 12(h)(3), and, in the alternative, summary judgment pursuant to Federal Rule of Civil Procedure 56(a).

On April 1, 2013, this court referred defendants' motion to Magistrate Judge Marilyn D. Go for a Report and

Recommendation. (Order dated 4/1/2013.) Magistrate Judge Go issued a Report and Recommendation on August 14, 2013. (ECF No. 33, Report and Recommendation ("R&R"), 8/14/2013.)

Pursuant to 28 U.S.C. § 636(b)(1) and Federal Rule of Civil Procedure 72(b), plaintiff has 14 days from service to file written objections. The R&R explicitly stated that the parties had to file written objections by September 3, 2013, (R&R at 32-33), and a copy of the R&R was mailed to plaintiff to the address he had provided, and at which he had previously received service of motion papers, on August 14, 2013, (ECF No. 34, Scheduling Order, 9/3/13.) After the R&R was returned to sender by the U.S. Post Office, Judge Go's chambers sent a copy of the R&R via Federal Express to another address provided by plaintiff in his submissions and extended his time to file objections to September 18, 2013. (ECF No. 34, Scheduling Order, 9/3/13.) Petitioner has not filed any objections despite efforts by the court to send copies of the R&R to him to two addresses, including the address at which he had previously been served with motion papers. Plaintiff has previously been advised of his obligation to promptly advise the court and defendants of any and all changes in his mailing address. (Minute Entry dated 6/11/2012.)

In reviewing a Report and Recommendation, the district

court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1)(C). Where no objection to the Report and Recommendation has been filed, the district court "need only satisfy itself that there is no clear error on the face of the record." *Urena v. New York*, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (quoting *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985) (citations omitted)).

Upon a review of R&R, and considering that the parties have failed to object to any of Magistrate Judge Go's thorough and well-reasoned recommendations, the court finds no clear error in Magistrate Judge Go's Report and Recommendation and hereby affirms and adopts the Report and Recommendation as the opinion of the court.

Accordingly, defendants' motion for summary judgment and for judgment on the pleadings is granted and plaintiff's complaint is dismissed. The clerk of court is respectfully requested to enter judgment in favor of defendants, and mail a copy of this order to plaintiff at 3334 Curtis Drive, #203, Suitland, MD 20746, along with a packet of appellate procedures. The clerk of court is further respectfully requested to close this case.

SO ORDERED.

Dated: September 19, 2013
Brooklyn, New York

/s/

Kiyo A. Matsumoto
United States District Judge