

D/F

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JUANITA DURANT,

Plaintiff,

-against-

NEW YORK CITY HOUSING AUTHORITY, MARY
MOHAN, YOLANDA RIVERA, GABELUS
MONESTIME, TYREE HASLIP, ATTORNEY
GERALD STERNBERG, and TRIAL OFFICER
WALTER MCKINLEY CROWE,

Defendants.

ORDER

12-CV-937 (NGG) (JMA)

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NICHOLAS G. GARAUFGIS, United States District Judge.

On February 23, 2012, pro se Plaintiff brought suit against Defendants alleging constitutional violations and employment discrimination under federal and New York law arising from her employment with the NYC Housing Authority. (See Compl. (Dkt. 1).) On June 1, 2012, Defendants filed a motion to dismiss the Complaint for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6). (Dkt. 13.) Plaintiff did not file an opposition to the motion. (See July 27, 2012, Def. Ltr. (Dkt. 16).) This motion was referred to Magistrate Judge Joan M. Azrack for a Report and Recommendation (“R&R”) pursuant to 28 U.S.C. § 636(b)(1)(B) and Federal Rule of Civil Procedure 72(b)(1). (May 7, 2012, Order (Dkt. 9).)

On March 4, 2013, Judge Azrack issued her R&R recommending that: (1) all of Plaintiff’s federal claims be dismissed without prejudice, except for her claims against the individual defendants under Title VII to the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq. and the Americans with Disabilities Act, as amended, 42 U.S.C. § 12101 et seq., which should be dismissed with prejudice; (2) the court exercise supplemental jurisdiction over

Plaintiff's state law claims and dismiss them without prejudice; and (3) that Plaintiff be given thirty (30) days to file an Amended Complaint. (R&R (Dkt. 17).)

In reviewing a magistrate judge's R&R, the district court "may adopt those portions of the Report to which no objections have been made and which are not facially erroneous." La Torres v. Walker, 216 F. Supp. 2d 157, 159 (S.D.N.Y. 2000); see also Porter v. Potter, 219 F. App'x 112, 113 (2d Cir. 2007) (failure to object waives further judicial review). The court reviews de novo "those portions of the report . . . to which objection is made." 28 U.S.C. § 636(b)(1).

No party has objected to Judge Azrack's R&R, and the time to do so has passed. The court concludes that the R&R is not facially erroneous. Therefore, it is ADOPTED in its entirety. Plaintiff may file an Amended Complaint within thirty days of receipt of this Order. Should Plaintiff fail to file a timely Amended Complaint, the court will dismiss this action with prejudice pursuant to Federal Rule of Civil Procedure 41(b). See Link v. Wabash R. Co., 370 U.S. 626, 631-33 (1962) (holding that district courts have the inherent power to dismiss claims for lack of prosecution).

SO ORDERED.

Dated: Brooklyn, New York
March 22, 2013

s/Nicholas G. Garaufis

NICHOLAS G. GARAUFIS U
United States District Judge