

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.
★ MAY 13 2019 ★
BROOKLYN OFFICE
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PATRICIA ATKINS-PAYNE, :
 :
 :
 Plaintiff, :
 :
 -against- :
 :
 LIEUTENANT McLAUGHLIN, et al., :
 :
 Defendants. :
----- x

ORDER
17-CV-2985 (ENV) (RML)

ELLIOT O. PAYNE, :
 :
 :
 Plaintiff, :
 :
 -against- :
 :
 LIEUTENANT McLAUGHLIN, et al., :
 :
 Defendants. :
----- x

17-CV-3392 (ENV) (RML)

VITALIANO, D.J.

Pro se plaintiffs Patricia Atkins-Payne and Elliot O. Payne commenced these actions on May 12, 2017, and June 2, 2017, respectively, asserting claims under 42 U.S.C. § 1983. Occasioned by their failure to comply with the Court’s October 3, 2013 Order and provide an executed release for access to records concerning Elliot Payne’s November 2015 arrest, the New York City Corporation Counsel, on February 14, 2019, moved for both cases to be dismissed for lack of prosecution. The Court respectfully referred the motion to Magistrate Judge Robert M. Levy.

By Report and Recommendation (“R&R”), dated April 11, 2019, Judge Levy recommended that the motion be granted and the actions dismissed. Dkt. No. 12 (both actions). Judge Levy had attempted to schedule an in-person conference before issuing his R&R, but “neither plaintiff appeared or requested an adjournment, and attempts to reach them by telephone

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were unavailing.” R&R at 2. With notice of the time to object properly given, *see id.*, no party has filed an objection to the R&R, and the time to do so has passed.

Where no timely written objection has been filed, a district judge need only review an R&R for clear error. *See Dafeng Hengwei Textile Co. v. Aceco Indus. & Commercial Corp.*, 54 F. Supp. 3d 279, 283 (E.D.N.Y. 2014). In accordance with that standard of review, the Court has carefully examined Judge Levy’s R&R, and finds it to be correct, well-reasoned and free of any clear error. The Court, therefore, adopts the R&R, in its entirety, as the opinion of the Court.

Conclusion

For the foregoing reasons, Magistrate Judge Levy’s R&R is adopted, in its entirety, as the opinion of the Court. The Corporation Counsel’s motion is granted, and these actions are dismissed with prejudice for failure to prosecute.

The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this Order would not be taken in good faith and, therefore, *in forma pauperis* status is denied for the purpose of any appeal. *Coppedge v. United States*, 369 U.S. 438, 444-45, 82 S. Ct. 917, 8 L. Ed. 2d 21 (1962).

The Clerk of Court is directed to enter judgment accordingly and to close these cases.

So Ordered.

Dated: Brooklyn, New York
May 9, 2019

/S/ USDJ ERIC N. VITALIANO

ERIC N. VITALIANO
United States District Judge