

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
Jacqueline Silver,

Plaintiff,

MEMORANDUM & ORDER

-against-

20-CV-03868 (DG) (ST)

The City of New York and NYPD Detective
Michael Galgano,

Defendants.

-----X
Jacqueline Silver,

Plaintiff,

20-CV-06348 (DG) (ST)

-against-

NYPD Detective John Seel,

Defendant.

-----X
DIANE GUJARATI, United States District Judge:

In 2020, Plaintiff Jacqueline Silver, proceeding *pro se*, filed the Complaints in the two above-captioned actions. *See* No. 20-CV-03868, ECF No. 1; No. 20-CV-06348, ECF No. 1. On March 13, 2023, the Defendants in each action filed a Motion to Dismiss pursuant to Rules 41(b) and 37 of the Federal Rules of Civil Procedure. *See* No. 20-CV-03868, ECF No. 62; No. 20-CV-06348, ECF No. 48.¹

On September 12, 2023, Magistrate Judge Steven Tiscione issued a Report and Recommendation (“R&R”) recommending that each Motion to Dismiss be granted. *See* R&R at 1, 14 (No. 20-CV-03868, ECF No. 65; No. 20-CV-06348, ECF No. 51). Judge Tiscione

¹ Familiarity with the detailed procedural history and background of each of the above-captioned actions is assumed herein.

recommended that the Complaint in each action be dismissed under Rule 41(b) of the Federal Rules of Civil Procedure for Plaintiff's failure to prosecute. *See* R&R at 7-13 (conducting five-factor analysis). Judge Tiscione also recommended dismissal under Rule 37(b)(2) of the Federal Rules of Civil Procedure. *See* R&R at 13-14 (noting that Plaintiff repeatedly defied Court orders and failed to appear at multiple hearings). Judge Tiscione further recommended that the Court "deny Plaintiff's latest Motion for Extension of Time to produce sealed releases in both actions." *See* R&R at 9 n.15.²

By letter motion dated October 9, 2023 and filed on October 11, 2023, Plaintiff requested "a brief extension" for filing her "opposition" to the R&R. *See* No. 20-CV-03868, ECF No. 67; No. 20-CV-06348, ECF No. 53. Notwithstanding the timing of Plaintiff's letter motion, in light of Plaintiff's *pro se* status, the Court granted Plaintiff's request for an extension and directed Plaintiff to file any objections to the R&R by November 1, 2023. *See* October 18, 2023 Order (both dockets).

To date, no objection to the R&R has been filed. *See generally* dockets.³

A district court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1); *see also* Fed. R. Civ. P. 72(b)(3). To accept those portions of an R&R to which no timely objection has been made, "a district court need only satisfy itself that there is no clear error on the face of the record." *Lorick v. Kilpatrick Townsend & Stockton LLP*, No. 18-CV-07178, 2022 WL 1104849, at *2 (E.D.N.Y. Apr. 13, 2022) (quoting *Ruiz v. Citibank, N.A.*, No. 10-CV-05950, 2014 WL 4635575, at *2

² *See* Motion for Extension of Time, No. 20-CV-03868, ECF No. 64; No. 20-CV-06348, ECF No. 50.

³ To date, Plaintiff has not produced the releases at issue. *See generally* dockets.

(S.D.N.Y. Aug. 19, 2014)); *see also Jarvis v. N. Am. Globex Fund, L.P.*, 823 F. Supp. 2d 161, 163 (E.D.N.Y. 2011).

Having reviewed Judge Tiscione's R&R and having found no clear error, the Court adopts the recommendations that the Complaints in the above-captioned actions be dismissed and that the Motions for Extension of Time in the above-captioned actions be denied.

The Motions to Dismiss in the above-captioned actions (No. 20-CV-03868, ECF No. 62; No. 20-CV-06348, ECF No. 48) are GRANTED to the extent that they seek dismissal of the Complaints in the above-captioned actions; the Complaints in the above-captioned actions (No. 20-CV-03868, ECF No. 1; No. 20-CV-06348, ECF No. 1) are DISMISSED without prejudice; and the Motions for Extension of Time in the above-captioned actions (No. 20-CV-03868, ECF No. 64; No. 20-CV-06348, ECF No. 50) are DENIED.⁴

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 denies *in forma pauperis* status for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Clerk of Court is directed to enter judgment accordingly, mail a copy of this Order to Plaintiff, and close the above-captioned cases.

SO ORDERED.

/s/ Diane Gujarati
DIANE GUJARATI
United States District Judge

Dated: November 13, 2023
Brooklyn, New York

⁴ The Court notes that each Motion to Dismiss requests dismissal of the respective case with prejudice, *see* No. 20-CV-03868, ECF No. 62 at 1, 5; No. 20-CV-06348, ECF No. 48 at 1, 5, and that the R&R recommended that each Motion to Dismiss be granted "in its entirety" but did not explicitly recommend that dismissal of the Complaints be with prejudice, *see generally* R&R.