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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
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DARLENE WILLIAMS,

Plaintiff,

-against-

ORDER

08-CV-3085 (TCP) (AKT)

WAL-MART STORES, INC.,

Defendant.

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PLATT, District Judge.

Before the Court is Magistrate Judge A. Kathleen Tomlinson's Report and Recommendation dated February 9, 2011 recommending that the undersigned grant plaintiff's motion to reopen this case. For the following reasons, plaintiff's motion to reopen this case is hereby **GRANTED**.

First, there is no evidence that plaintiff's motion to reopen this case, eight days after the deadline set by the Magistrate Judge, demonstrates a repeated and consistent refusal to comply with Court Orders such that dismissal is warranted. Secondly, there is no evidence that plaintiff's failure to move to reopen this case by August 2, 2010, as opposed to August 10, 2010, demonstrates that she abandoned her case. Third, defendant does not allege any actual prejudice in its opposition, reply or objection to Magistrate Judge Tomlinson's Report recommending that plaintiff's case be reopened. Nor do any delays in going forward with this case evince a palpable burden on the Court's docket. Furthermore, there is no evidence that plaintiff's failure to move to reopen this

case eight days late warrants sanctions based on the lack of evidence that plaintiff's counsel acted willfully or in bad faith.

Finally, the Court has considered defendant's objections and finds them to be without merit considering that its counsel knew that the case was being administratively closed and could be reopened.

Magistrate Judge Tomlinson's Report and Recommendation to reopen this case is adopted in its entirety and plaintiff's motion is hereby **GRANTED**. Accordingly, the Clerk's office is directed to restore this case to the Court's calendar. Within fifteen (15) days of the filing of this Order, plaintiff's attorney is to communicate with Magistrate Judge Tomlinson's Chambers with respect to the filing of a pre-trial order in this matter.

SO ORDERED.

Dated: March 15, 2011
Central Islip, New York



Thomas C. Platt, U.S.D.J.