

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X

DOUGLAS STEWART WHITE,

Plaintiff,

-against-

MEMORANDUM & ORDER
15-CV-1035(JS) (SIL)

ROOSEVELT UNION FREE SCHOOL DISTRICT
BOARD OF EDUCATION,

Defendant.

-----X

APPEARANCES

For Plaintiff: Douglas Stewart White, pro se
989 Clinton Place
Baldwin, NY 11510

For Defendant: Gerald Stephen Smith, Esq.
Silverman and Associates
445 Hamilton Avenue, Suite 1102
White Plains, NY 10601

SEYBERT, District Judge:

Pending before the Court is Defendant's motion to dismiss (Docket Entry 8) and Magistrate Judge Steven I. Locke's Report and Recommendation ("R&R"), recommending that this Court grant Defendant's motion, but allow the pro se Plaintiff an opportunity to amend his Complaint to assert viable claims, (R&R, Docket Entry 29). For the following reasons, the Court ADOPTS Judge Locke's R&R in its entirety.

BACKGROUND

Pro se Plaintiff Douglas Stewart White ("Plaintiff") commenced this action on February 24, 2015 against Defendant the Roosevelt Union Free School District Board of Education

("Defendant") alleging that Defendant discriminated against him in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000 et seq. and the Americans with Disabilities Act of 1990, 42 U.S.C. § 12112 et seq. (Compl. at 1.)

On June 17, 2015, Defendant moved to dismiss the Complaint, (Docket Entry 8), and on October 13, 2015, the undersigned referred Plaintiff's motion to Judge Locke for an R&R on whether the motion should be granted. (Docket Entry 16.) Judge Locke issued his R&R on August 8, 2016. (Docket Entry 29.) The R&R recommends that the Court grant Defendant's motion to dismiss in its entirety, but allow Plaintiff an opportunity to file an Amended Complaint in an effort to assert viable claims. (R&R at 23.)

DISCUSSION

In reviewing an R&R, a district court "may accept, reject, or modify, in whole or in part, the findings and recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). If no timely objections have been made, the "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) (internal quotation marks and citation omitted).

Objections were due within fourteen (14) days of service of the R&R. The time for filing objections has expired, and no

party has objected. Accordingly, all objections are hereby deemed to have been waived.

Upon careful review and consideration, the Court finds Judge Locke's R&R to be comprehensive, well-reasoned, and free of clear error, and it ADOPTS the R&R in its entirety.

CONCLUSION

Judge Locke's R&R (Docket Entry 29) is ADOPTED in its entirety and Defendant's motion to dismiss (Docket Entry 8) is GRANTED. However, Plaintiff is also granted leave to file an Amended Complaint in an effort to assert viable discrimination claims. **Any Amended Complaint shall be filed within ninety (90) days from the date of this Order, shall be titled "Amended Complaint," and shall bear the same docket number as this Order, No. 15-CV-1-35 (JS) (SIL).** Plaintiff is cautioned that an Amended Complaint completely replaces the original Complaint. Therefore, all claims and allegations Plaintiff wishes to pursue should be included in the Amended Complaint. Plaintiff is directed to file his Amended Complaint within ninety (90) days from the date of this Memorandum & Order.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: September 8, 2016
Central Islip, New York