

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ALBERT M. LaPOINTE,

Plaintiff,

-against-

1:16-CV-1441 (LEK/CFH)

DAVID ELLIS, *et al.*,

Defendants.

ORDER

This matter comes before the Court following a Report-Recommendation filed on December 13, 2016, by the Honorable Christian F. Hummel, U.S. Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3. Dkt. No. 4 (“Report-Recommendation”).

Within fourteen days after a party has been served with a copy of a magistrate judge’s report-recommendation, the party “may serve and file specific, written objections to the proposed findings and recommendations.” Fed. R. Civ. P. 72(b); L.R. 72.1(c). If no objections are made, or if an objection is general, conclusory, perfunctory, or a mere reiteration of an argument made to the magistrate judge, a district court need review that aspect of a report-recommendation only for clear error. *Barnes v. Prack*, No. 11-CV-857, 2013 WL 1121353, at *1 (N.D.N.Y. Mar. 18, 2013); *Farid v. Bouey*, 554 F. Supp. 2d 301, 306–07, 306 n.2 (N.D.N.Y. 2008), overruled on other grounds by *Widomski v. State Univ. of N.Y. (SUNY) at Orange*, 748 F.3d 471 (2d Cir. 2014); see also *Machicote v. Ercole*, No. 06-CV-13320, 2011 WL 3809920, at *2 (S.D.N.Y. Aug. 25, 2011) (“[E]ven a *pro se* party’s objections to a Report and Recommendation must be specific and clearly aimed at particular findings in the magistrate’s proposal, such that no party be allowed a second bite at the apple by simply relitigating a prior argument.” (quoting *Howell v.*

Port Chester Police Station, No. 09-CV-1651, 2010 WL 930981, at *1 (S.D.N.Y. Mar. 15, 2010))). “A [district] judge . . . 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).

No objections were filed in the allotted time period. Docket. The Court has therefore reviewed the Report-Recommendation for clear error and has found none.

Accordingly, it is hereby:

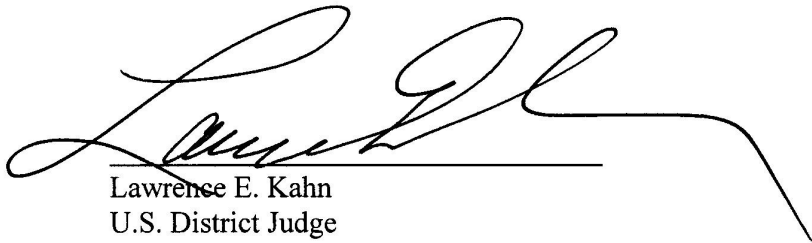
ORDERED, that the Report-Recommendation (Dkt. No. 4) is **APPROVED and ADOPTED in its entirety**; and it is further

ORDERED, that Plaintiff’s Complaint (Dkt. No. 1) is **DISMISSED with leave to amend**,¹ and it is further

ORDERED, that the Clerk of the Court serve a copy of this Order on Plaintiff in accordance with the Local Rules.

IT IS SO ORDERED.

DATED: April 05, 2017
Albany, New York



Lawrence E. Kahn
U.S. District Judge

¹ The Court notes that Plaintiff has already filed an amended complaint, Dkt. No. 8, which is hereby referred to Judge Hummel for initial review.