

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ANTHONY ROYAL,

Plaintiff,

v.

1:17-CV-1251
(GTS/CFH)
Lead Case

SECRETARY OF VETERANS AFFAIRS,¹

Defendant.

ANTHONY ROYAL,

Plaintiff,

v.

1:17-CV-1252
(GTS/CFH)
Member Case

SECRETARY OF VETERANS AFFAIRS,

Defendant.

APPEARANCES:

ANTHONY ROYAL

Plaintiff, *Pro Se*

67 Broad Street, Apt. 102

Albany, New York 12202

GLENN T. SUDDABY, Chief United States District Judge

DECISION and ORDER

Currently before the Court, in this consolidated *pro se* civil rights action filed by

¹ Although Plaintiff's Amended Complaint of May 7, 2018, named Secretary David Shulkin as the Defendant, Mr. Shulkin has since been replaced as Secretary of Veterans Affairs by Robert Wilkie. To the extent that Plaintiff is suing Mr. Shulkin in his official capacity, Mr. Shulkin's successor, Mr. Wilkie, is automatically substituted as the Defendant pursuant to Fed. R. Civ. P. 25(d).

Anthony Royal (“Plaintiff”) against the Secretary of Veterans Affairs (“Defendant”) alleging workplace discrimination on the basis of race and disability under Title VII of the Civil Rights Act of 1964 and workplace discrimination on the basis of age under the Age Discrimination in Employment Act of 1967 (“ADEA”), is United States Magistrate Judge Christian F. Hummel’s Report-Recommendation recommending that (while Plaintiff’s race-discrimination and disability-discrimination claims under Title VII be permitted to proceed) Plaintiff’s age-discrimination claim under the ADEA be dismissed without leave to replead. (Dkt. No. 14.) Plaintiff has not filed an objection to the Report-Recommendation, and the deadline by which to do so has expired. (*See generally* Docket Sheet.)

After carefully reviewing the relevant papers herein, including Magistrate Judge Hummel’s thorough Report-Recommendation, the Court can find no clear-error in the Report-Recommendation.² Magistrate Judge Hummel employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts. As a result, the Report-Recommendation is accepted and adopted in its entirety for the reasons set forth therein: while Plaintiff’s race-discrimination and disability-discrimination claims under Title VII are accepted for filing, Plaintiff’s age-discrimination claim under the ADEA is dismissed with prejudice.

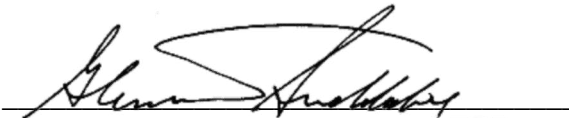
² When no objection is made to a report-recommendation, the Court subjects that report-recommendation to only a clear error review. Fed. R. Civ. P. 72(b), Advisory Committee Notes: 1983 Addition. When performing such a “clear error” review, “the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Id.*; *see also Batista v. Walker*, 94-CV-2826, 1995 WL 453299, at *1 (S.D.N.Y. July 31, 1995) (Sotomayor, J.) (“I am permitted to adopt those sections of [a magistrate judge’s] report to which no specific objection is made, so long as those sections are not facially erroneous.”) (internal quotation marks omitted).

ACCORDINGLY, it is

ORDERED that Magistrate Judge Hummel's Report-Recommendation (Dkt. No. 14) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

ORDERED that Plaintiff's age-discrimination claim under the ADEA (Dkt. No. 11) is **DISMISSED with prejudice**. The Clerk of the Court is directed to enter judgment and close both the lead case 1:17-cv-1251 and member case 1:17-cv-1252.

Dated: August 28, 2018
Syracuse, New York


HON. GLENN T. SUDDABY
Chief United States District Judge