

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

PERRY PENDELL,

Plaintiff,

v.

1:18-CV-0352
(GTS/TWD)

U.S. SECRET SERV.; and KIM CAMPBELL,
Special Agent in Charge–Freedom of Info. Act
and Privacy Act Officer,

Defendants.

APPEARANCES:

PERRY PENDELL, No. 14A3835
Plaintiff, *Pro Se*
Coxsackie Correctional Facility
P.O. Box 999
Coxsackie, New York 12051-0999

GLENN T. SUDDABY, Chief United States District Judge

DECISION and ORDER

Currently before the Court, in this *pro se* action filed by Perry Pendell (“Plaintiff”) against the United States Secret Service (“USSS”) and employee Kim Campbell (“Defendants”) claiming a violation of the Freedom of Information Act, 5 U.S.C. § 552(a)(4)(B), is United States Magistrate Judge Thérèse Wiley Dancks’ Report-Recommendation recommending that Plaintiff’s claims against Kim Campbell be *sua sponte* dismissed with prejudice for lack of subject-matter jurisdiction but that his claims against the USSS survive the Court’s *sua sponte* review of his Complaint. (Dkt. No. 7.) 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 Dancks' thorough Report-Recommendation, the Court can find no clear-error in the Report-Recommendation:¹ Magistrate Judge Dancks 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, Plaintiff's claims against Kim Campbell are *sua sponte* dismissed with prejudice, and his claims against the USSS survive the Court's *sua sponte* review of his Complaint.

ACCORDINGLY, it is

ORDERED that Magistrate Judge Dancks' Report-Recommendation (Dkt. No. 7) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

ORDERED that Plaintiff's claims against Defendant Kim Campbell are *sua sponte* **DISMISSED with prejudice** for lack of subject-matter jurisdiction; and it is further

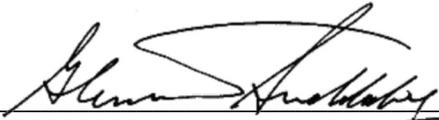
ORDERED that Plaintiff's claims against Defendant United States Secret Service **SURVIVE** the Court's *sua sponte* review of his Complaint; and it is further

ORDERED that the Clerk of Court is directed to issue a Summons and forward it, along with a copy of the Complaint containing General Order 25 (which sets forth the Civil Case Management Plan used by the Northern District of New York), to the U.S. Marshal for service upon Defendant USSS; and it is further

¹ 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).

ORDERED that, after service of process, Defendant USSS shall file a response to Plaintiff's Complaint in accordance with the Federal Rules of Civil Procedure.

Dated: June 6, 2018
Syracuse, New York



HON. GLENN T. SUDDABY
Chief United States District Judge