

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

MARGARET-ANN WILLIAMS, Aggrieved Woman,

Plaintiff,

v.

5:21-CV-0163
(GTS/ML)

GASTROENTEROLOGY & HEPATOLOGY OF CNY,

Defendant.

APPEARANCES:

MARGARET-ANN WILLIAMS

Plaintiff, *Pro Se*

1519 East Fayette Street

Syracuse, New York 13210

GLENN T. SUDDABY, Chief United States District Judge

DECISION and ORDER

Currently before the Court, in this *pro se* civil rights action filed by Margaret-Ann Williams (“Plaintiff”) against Gastroenterology & Hepatology of CNY (“Defendant”), are (1) United States Magistrate Judge Miroslav Lovric’s Report-Recommendation recommending that Plaintiff’s Complaint (Dkt. No. 1) be *sua sponte* dismissed with leave to replead for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B) and for lack of subject-matter jurisdiction, and (2) Plaintiff’s Objections to the Report-Recommendation. (Dkt. Nos. 9, 13.) For the reasons set forth below, Magistrate Judge Lovric’s Report-Recommendation is accepted and adopted in its entirety.

Even when construed when the utmost of special liberality, Plaintiff’s Objections do not

set forth a specific challenge to any portion of the Report-Recommendation. (*See generally* Dkt. No. 13.) Rather, Plaintiff's Objections argue merely that she did not receive a copy of the Report-Recommendation until May 13, 2021 (ten days after the Objection deadline of May 3, 2021), and thus presumably she should could not in a timely fashion respond to the Report-Recommendation (and should not be subjected to any adverse ruling recommended in it). (*Id.* at ¶ 3.)

This argument is plainly without merit, given that, on May 18, 2021, the Court issued a Text Order extending the Objection deadline until June 1, 2021. (Dkt. No. 12.) On the same day, the Court sent the Text Order to Plaintiff by regular mail, and that mail was never returned to the Court as undeliverable. (*See generally* Docket Sheet.) Indeed, Plaintiff appears to concede that she received a copy of the Text Order on May 20, 2021 (five days before she mailed her current Objections), because she concedes that, on that day, she received a third copy of the Report-Recommendation, which had been mailed *along with the Text Order* on May 18, 2021. (Dkt. No. 13, at ¶ 10.) Even if Plaintiff did not receive notice of the deadline extension before she mailed her Objections on May 25, 2021, she has presented no reason for the Court to conclude that she did not receive that notice before the deadline expired on June 1, 2021. (*See generally* Docket Sheet.) For all of these reasons, the Court finds that the Report-Recommendation need be subjected to only a clear-error review.¹

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

After carefully reviewing the relevant papers herein, including Magistrate Judge Lovric's thorough Report-Recommendation, the Court can find no clear-error in the Report-Recommendation. Magistrate Judge Lovric employed the proper standards, accurately recited the facts, and reasonably applied the law to those facts. Indeed, even if the Court were to subject the Report-Recommendation to a de novo review, it would find that the Report-Recommendations survives that review. As a result, the Report-Recommendation is accepted and adopted in its entirety for the reasons set forth therein.

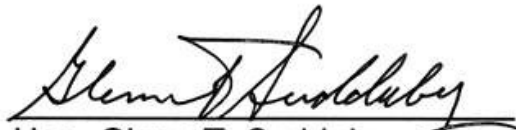
ACCORDINGLY, it is

ORDERED that Magistrate Judge Lovric's Report-Recommendation (Dkt. No. 9) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

ORDERED that Plaintiff's Complaint (Dkt. No. 1) **shall be DISMISSED** without further Order of the Court **unless, within THIRTY (30) DAYS** from the date of this Decision and Order, she files an **AMENDED COMPLAINT** that cures the pleading defects identified in the Report-Recommendation; and it is further

ORDERED that, should Plaintiff file an Amended Complaint within thirty (30) days of the date of this Decision and Order, the Amended Complaint will be returned to Magistrate Judge Lovric for further review.

Dated: July 19, 2021
Syracuse, New York


Hon. Glenn T. Suddaby
Chief U.S. District Judge

quotation marks omitted).