

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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TYLER A. VALDEZ,

Plaintiff,

v.

8:20-CV-0035  
(GTS/DJS)

SOCIAL SECURITY ADMINISTRATION,

Defendant.

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APPEARANCES:

TYLER A. VALDEZ

Plaintiff, *Pro Se*

2091 Plumbrook Road

Norfolk, New York 13667

GLENN T. SUDDABY, Chief United States District Judge

**DECISION and ORDER**

Currently before the Court, in this *pro se* action filed by Jamel L. Jenkins (“Plaintiff”) against the Social Security Administration (“Defendant”) asserting claims under the Americans with Disabilities Act, is United States Magistrate Judge Daniel J. Stewart’s Report-Recommendation recommending Plaintiff’s Complaint be *sua sponte* dismissed without prejudice and with leave to amend for failure to state a claim upon which relief may be granted. (Dkt. No. 5.) Plaintiff has not filed an Objection to the Report-Recommendation, and the deadline in which to do so has expired. (*See generally* Docket Sheet.)

After carefully reviewing the relevant papers herein, including Magistrate Judge Stewart’s thorough Report-Recommendation, the Court can find no clear-error in the

Report-Recommendation.<sup>1</sup> Magistrate Judge Stewart 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, and Plaintiff's Complaint shall be dismissed with prejudice unless, within thirty days of the date of this Decision and Order, Plaintiff files an Amended Complaint that corrects the pleading defects in his original Complaint.

**ACCORDINGLY**, it is

**ORDERED** that Magistrate Judge Stewart's Report-Recommendation (Dkt. No. 5) is **ACCEPTED** and **ADOPTED** in its entirety; and it is further

**ORDERED** that Plaintiff's Complaint (Dkt. No. 1) shall be **DISMISSED** with **prejudice UNLESS, within THIRTY (30) DAYS** of the date of this Decision and Order, Plaintiff files as Amended Complaint that corrects the pleading defects identified in the Report-Recommendation; and it is further


**ORDERED** that, should Plaintiff not file an Amended Complaint within thirty days of the date of this Decision and Order, Plaintiff's Complaint shall be dismissed with prejudice without further Order of the Court; and it is further

**ORDERED** that, should Plaintiff file an Amended Complaint, it shall be referred to Magistrate Judge Stewart for his review pursuant to 28 U.S.C. § 1915(e).

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<sup>1</sup> 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).

Dated: May 21, 2020  
Syracuse, New York

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