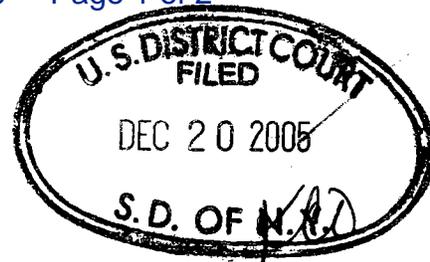


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Doc # 18



Steven Perez,
Plaintiff,

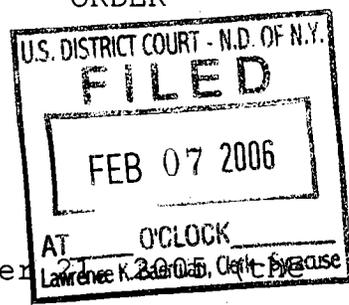
-against-

State of New York, et al.,

Defendants.

9:06-cv-168
GLS/DRH
05 Civ. 0360 (KMW) (THK)

ORDER



WOOD, U.S.D.J.:

By report and recommendation dated November
"Report"), Magistrate Judge Theodore H. Katz recommended that the
Court deny defendants' motion to dismiss pro se plaintiff's
complaint under 42 U.S.C. §1983 be denied, and that the case be
transferred to the Northern District of New York.

The Report explicitly cautioned that failure to file timely
objections would preclude appellate review. See Thomas v. Arn,
474 U.S. 140, 155 (1985); Wesolek v. Canadair Ltd., 838 F.2d 55,
58 (2d Cir. 1988). No objections have been filed, and the time
to object has expired. See IUE AFL-CIO Pension Fund v. Herrmann,
9 F.3d 1049, 1054 (2d Cir. 1993).

The Court has reviewed the Report, and finds it to be well-
reasoned and free of any "clear error on the face of the record."

Fed. R. Civ. P. 72(b) advisory committee's note. See
also Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985).

The Court therefore accepts and adopts the Report. See Thomas,

J. MICHAEL McMAHON, CLERK
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474 U.S. at 155 (1985) (failure to file timely objections constitutes waiver of objections); Small v. Sec'y of Health & Human Servs., 892 F.2d 15, 16 (2d Cir. 1989) ("failure to object timely to a magistrate's report operates as a waiver of any further judicial review of the magistrate's decision").

Accordingly, the Court denies defendants' motion to dismiss, but orders this case transferred to the Northern District of New York.

The Clerk of the Court is directed to close this case. Any pending motions are moot.

SO ORDERED.

Dated: New York, New York
December 15, 2005

Kimba M. Wood
Kimba M. Wood
United States District Judge