

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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CARLOS RIVERA,

Plaintiff,

vs.

9:10-CV-1369

MARK D. KINDERMAN, Acting Superintendent,  
Marcy Correctional Facility,

Defendants.

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Thomas J. McAvoy,  
Sr. U.S. District Judge

**DECISION & ORDER**

This *pro se* civil rights action pursuant to 42 U.S.C. § 1983 was referred to the Honorable Randolph F. Treece, United States Magistrate Judge, for a Report-Recommendation pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3(c).

The Report-Recommendation dated July 26, 2012 recommended: (1) Defendant's Motion for Sanctions, pursuant to Federal Rule of Civil Procedure 37(d), be granted; and (2) Plaintiff's Amended Complaint be dismissed in its entirety for the reasons stated in Magistrate Judge Treece's Order to Show Cause.

Plaintiff filed timely objections to the Report-Recommendation, which were non-specific and frivolous.

When objections to a magistrate judge's Report-Recommendation are lodged, the Court makes a "*de novo*

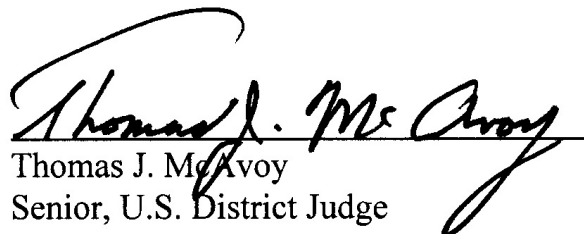
determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” See 28 U.S.C. § 636(b)(1). After such a review, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. The judge may also receive further evidence or recommit the matter to the magistrate judge with instructions.” Id.

Having reviewed the record *de novo* and having considered the issues raised in the Plaintiff’s objections, this Court has determined to ADOPT the recommendation of Magistrate Judge Treece in its entirety, for the reasons stated in the Report-Recommendation and the Order to Show Cause.

It is therefore **ORDERED** that Defendant’s Motion for Sanctions be granted pursuant to Federal Rule of Civil Procedure 37(d), and Plaintiff’s Amended Complaint be dismissed in its entirety pursuant to the recommendations set forth in the Report-Recommendation and the Order to Show Cause.

**IT IS SO ORDERED.**

Dated: October 25, 2012

  
Thomas J. McAvoy  
Senior, U.S. District Judge