UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF NEW YORK

DAVID HARRINGTON,

Plaintiff,

-against-

9:13-CV-0795 (LEK/RFT)

DR. VADLAMUDI; and SANDRA MARTIN SMITH,

Defendants.

ORDER

This matter comes before the Court following a Report-Recommendation filed on September 2, 2014, by the Honorable Randolph F. Treece, U.S. Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3. Dkt. No. 28 ("Report-Recommendation").

Within fourteen days after a party has been served with a copy of a magistrate judge's report-recommendation, the party "may serve and file specific, written objections to the proposed findings and recommendations." FED. R. CIV. P. 72(b); L.R. 72.1(c). If no objections are made, or if an objection is general, conclusory, perfunctory, or a mere reiteration of an argument made to the magistrate judge, a district court need review that aspect of a report-recommendation only for clear error. Chylinski v. Bank of Am., N.A., 434 F. App'x 47, 48 (2d Cir. 2011); Barnes v. Prack, No. 11-CV-0857, 2013 WL 1121353, at *1 (N.D.N.Y. Mar. 18, 2013); Farid v. Bouey, 554 F. Supp. 2d 301, 306-07 & n.2 (N.D.N.Y. 2008); see also Machicote v. Ercole, No. 06 Civ. 13320, 2011 WL 3809920, at *2 (S.D.N.Y. Aug. 25, 2011) ("[E]ven a *pro se* party's objections to a Report and Recommendation must be specific and clearly aimed at particular findings in the magistrate's proposal, such that no party be allowed a second bite at the apple by simply relitigating a prior

argument.").

Plaintiff filed a Letter seeking guidance as to the procedure for amending a complaint, but

did not object to the Report-Recommendation. Dkt. No. 31. The Court therefore reviews the

Report-Recommendation for clear error and finds none.

Accordingly, it is hereby:

ORDERED, that the Report-Recommendation (Dkt. No. 28) is APPROVED and

ADOPTED in its entirety; and it is further

ORDERED, that Defendants' Motion (Dkt. No. 16) to dismiss Plaintiff's claims under the

Americans with Disabilities Act and the Rehabilitation Act is **GRANTED**; and it is further

ORDERED, that Plaintiff's claims under the Americans with Disabilities Act and the

Rehabilitation Act are **DISMISSED** with leave to amend. If Plaintiff wishes to proceed with these

claims, he must file, within thirty (30) days of the filing date of this Order, an amended complaint

that remedies the deficiencies identified in the Report-Recommendation; and it is further

ORDERED, that the Clerk of the Court serve a copy of this Order on the parties to this

action in accordance with the Local Rules.

IT IS SO ORDERED.

DATED:

September 29, 2014

Albany, New York

Lawrence E. Kahn

U.S. District Judge

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