UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ERIC NELSON,

Plaintiff,

-against- 9:18-CV-0945 (LEK/TWD)

CHRIS MILES, SR.,

Defendant.

DECISION AND ORDER

I. INTRODUCTION

Pro se plaintiff Eric Nelson filed this lawsuit on August 10, 2018 asserting claims arising out of his confinement at Chenango County Jail. Dkt. No. 1 ("Complaint"). On February 8, 2019, the Honorable Thérèse Wiley Dancks, United States Magistrate Judge, entered a pretrial discovery and scheduling order detailing Plaintiff's discovery obligations. Dkt. No. 25 ("Discovery Order"). On February 22, 2019, Plaintiff provided the Court with an updated address. Dkt. No. 26. Despite several extensions of the Discovery Order's deadlines, see Dkt. Nos. 31, 34, Plaintiff has not communicated with the Court, see Docket, nor participated in any discovery as required by the Discovery Order, see Dkt. No. 37-1 (detailing Defendant's attempts to conduct discovery and Plaintiff's failure to respond). As a result, on September 23, 2019, Defendant moved for dismissal under Federal Rule of Civil Procedure 37 for failure to abide by a discovery order and under Federal Rule of Civil Procedure 41 for failure to prosecute. Dkt. No. 37 ("Motion"). Defendant also requested an award of attorneys' fees and costs. Id.

Now before the Court is a report-recommendation filed by Judge Dancks recommending that the Court grant Defendant's Motion as to its request for dismissal, but deny the Motion as to

its request for attorneys' fees and costs. Dkt. No. 39 ("Report-Recommendation"). For the reasons that follow, the Court adopts the Report-Recommendation in its entirety.

II. STANDARD OF REVIEW

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 objections are timely filed, a court "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b). However, 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. Barnes v. Prack, No. 11-CV-857, 2013 WL 1121353, at *1 (N.D.N.Y. Mar. 18, 2013); Farid v. Bouey, 554 F. Supp. 2d 301, 306–07 (N.D.N.Y. 2008), abrogated on other grounds by Widomski v. State Univ. of N.Y. at Orange, 748 F.3d 471 (2d Cir. 2014); see also Machicote v. Ercole, No. 06-CV-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 . . . ."). "A [district] judge . . . may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." § 636(b).

III. DISCUSSION

Neither party filed objections to the Report-Recommendation. See Docket. Consequently, the Court has reviewed the Report-Recommendation for clear error and found none. Therefore, the Court adopts the Report-Recommendation in its entirety.

IV. CONCLUSION

Accordingly, it is hereby:

ORDERED, that the Report-Recommendation (Dkt. No. 39) is **APPROVED and ADOPTED** in its entirety; and it is further

ORDERED, that Defendant's Motion (Dkt. No. 37) is **GRANTED** as to its request for dismissal of the Complaint, but **DENIED** as to its request for attorneys' fees and costs; and it is further

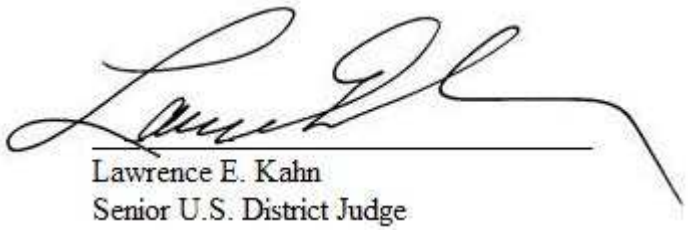
ORDERED, that Plaintiff's Complaint (Dkt. No. 1) is dismissed without prejudice; and it is further

ORDERED, that the Clerk shall close this action; and it is further

ORDERED, that the Clerk shall serve a copy of this Decision and Order on all parties in accordance with the Local Rules.

IT IS SO ORDERED.

DATED: June 15, 2020
Albany, New York



Lawrence E. Kahn
Senior U.S. District Judge