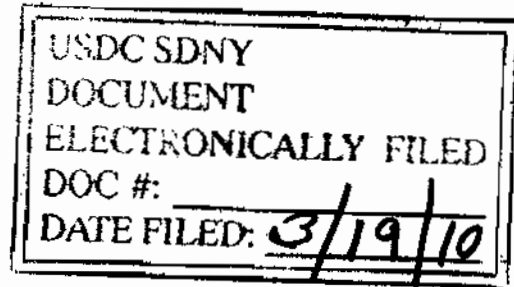


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



MOUSTAPHA MAGASSOUBA,

Plaintiff,

-against-

WARDEN JAMES N. CROSS, et al.,

Defendants.

08 Civ. 4560 (RJH)(HBP)

ORDER

Richard J. Holwell, District Judge:

On March 1, 2010, Magistrate Judge Henry Pitman issued and mailed to all parties a Report and Recommendation (“Report”) recommending that the Court grant defendants’ motion to dismiss [30] with prejudice to some claims and without prejudice to others, deny plaintiff’s motion to amend [47] without prejudice, and grant plaintiff’s application to withdraw his previous motion to amend [34]. To date, the Court has not received any objections to the Report or any other communication, such as a letter requesting an extension of time in which to file objections, from any party.

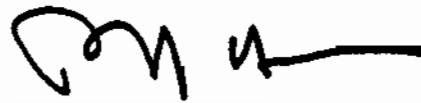
The district court adopts a Magistrate Judge's report and recommendation when no clear error appears on the face of the record. See *Nelson v. Smith*, 618 F.Supp. 1186, 1189 (S.D.N.Y.1985). However, the court is required to make a de novo determination of those portions of a report to which objection is made, 28 U.S.C. § 636(b)(1)(C), by reviewing “the Report, the record, applicable legal authorities, along with Plaintiff's and Defendant's objections and replies.” *Badhan v. Lab. Corp. of Am.*, 234 F.Supp.2d 313, 316 (S.D.N.Y.2002). The court may then accept, reject, or modify in whole or in part

recommendations of the Magistrate Judge. *See Nelson*, 618 F.Supp. at 1189. If a party fails to object to a report within 14 days of being served with the report, that party waives their right to object and appellate review of the district court's decision adopting the report, absent unusual circumstances, is precluded. *See United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir.1997). Where a party is served by mail, three days are added to the objection period, such that the party must object within 17 days of the date of mailing. *See Fed. R. Civ. P. 6(d)*.

Finding no clear error, the Court hereby adopts Judge Pitman's Report, which is notably thorough and well-reasoned. Plaintiff's federal claims against defendant Pena are dismissed with prejudice, and all other federal claims are dismissed without prejudice to renewal after plaintiff has exhausted administrative remedies. In light of the dismissal of all federal claims, the court declines supplemental jurisdiction and dismisses the state law claims without prejudice. The Clerk of the Court is requested to close this case.

SO ORDERED.

Dated: New York, New York
March 19, 2010



Richard J. Holwell
United States District Judge