

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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ANDRE STEADMAN,

Plaintiff,

09 Civ. 5154 (DAB) (MHD)  
ADOPTION OF REPORT  
AND RECOMMENDATION

-v.-

JOHN MAYO, CORRECTIONAL OFFICER,  
S. SASSI, SERGEANT, DOWNSTATE  
CORRECTIONAL FACILITY,

Defendants.

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DEBORAH A. BATTS, United States District Judge.

This matter is before the Court upon the September 20, 2013 Report and Recommendation of United States Magistrate Judge Michael H. Dolinger ("Report"). Judge Dolinger's Report recommends that Defendant Sassi's Motion for Summary Judgment on the remaining claim of excessive force be DENIED. (Report at 2.)

"Within fourteen days after being served with a copy [of a Magistrate Judge's Report and Recommendation], a party may serve and file specific written objections to the proposed findings and recommendations." Fed. R. Civ. P. 72(b)(2); accord 28 U.S.C. § 636(b)(1)(C). The District Court may adopt those portions of the Report to which no timely Objection has been made, so long as there is no clear error on the face of the record. Wilds v.

United Parcel Serv., Inc., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003). “[F]ailure to object timely to a magistrate’s report operates as a waiver of any further judicial review of the magistrate’s decision.” Caidor v. Onondaga County, 517 F.3d 601, 604 (2d Cir. 2008) (internal quotation marks omitted). This rule applies to pro se parties so long as the Magistrate Judge’s Report “explicitly states that failure to object to the report within [fourteen] days will preclude appellate review and specifically cites 28 U.S.C. § 636(b)(1) and rules 72, 6(a) and 6(e) of the Federal Rules of Civil Procedure.” Small v. Sec’y of Health & Human Servs., 892 F.2d 15, 16 (2d Cir. 1989) (per curiam).

Despite being advised of the procedure for filing Objections in Judge Dolinger’s Report and warned that failure to file Objections would waive objections and preclude appellate review (Report at 19), no Party has filed Objections to the Report.

Having reviewed the Report and finding no clear error on the face of the record, see 28 U.S.C. § 636(b)(1)(B), it is hereby ORDERED and ADJUDGED that the Report and Recommendation of United States Magistrate Judge Michael H. Dolinger, dated September 20, 2013, be and the same hereby is APPROVED, ADOPTED, and RATIFIED

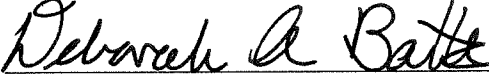
by the Court in its entirety. Defendant Sassi's Motion for Summary Judgment is DENIED.

Parties shall submit their Proposed Voir Dire Questions and Proposed Requests to Charge to this Court, in conformity with the Court's Individual Practices, no later than Friday, December 20, 2013. Parties shall file their Joint Pre-Trial Statement ("JPTS") and respective Memoranda of Law addressing the issues raised in the JPTS by December 20, 2013. Responses to the Memoranda of Law shall be submitted by January 17, 2014. There shall be no replies.

The Clerk of the Court is directed to close ECF entry 61 in this matter.

SO ORDERED.

Dated: October 30, 2013  
New York, New York

  
Deborah A. Batts  
United States District Judge