

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

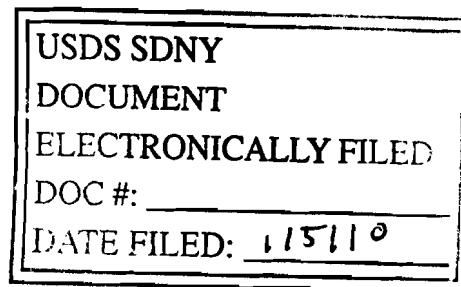
STEVEN DAVIS

Plaintiff,

-v-

CITY OF NEW YORK, *et al.*,

Defendants.



No. 09 Civ. 9354 (RJS) (MHD)

ORDER ADOPTING REPORT AND
RECOMMENDATION

RICHARD J. SULLIVAN, District Judge:

Plaintiff filed his Complaint on November 12, 2009. (Doc. No. 2.) This matter was referred to the Honorable Michael H. Dolinger, Magistrate Judge, for general pre-trial by order dated November 30, 2009. (Doc. Nos. 3, 4.) On December 10, 2009, Judge Dolinger issued a Report and Recommendation, noting that he was in receipt of a letter from Plaintiff, dated October 29, 2009, and received by the *Pro Se* Office in this Courthouse on November 9, 2009 — three days before Plaintiff filed his Complaint but inexplicably (and inexcusably) not forwarded to Judge Dolinger until more than one month later, on December 10, 2009 — in which Plaintiff requests permission to withdraw his Complaint. (Doc. No. 5.) Judge Dolinger recommended that the complaint be deemed withdrawn, and advised the parties that failure to file timely objections within fourteen (14) days from the date of the Report would constitute a waiver of those objections. *See* 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b). No party has filed objections to the Report, and the time to do so has expired. *Cf. Frank v. Johnson*, 968 F.2d 298 (2d Cir. 1993).

When no objections to a report and recommendation are made, the Court may adopt the report if there is no clear error on the face of the record. *Adee Motor Cars, LLC v. Amato*, 388 F. Supp. 2d 250, 253 (S.D.N.Y. 2005); *La Torres v. Walker*, 216 F. Supp. 2d 157, 159 (S.D.N.Y. 2000). After reviewing the record, the Court finds that Judge Dolinger's Report and Recommendation is not facially erroneous. Accordingly, the Court adopts the Report and Recommendation in its entirety. For the reasons set forth in the Report and Recommendation, the Court orders that Plaintiff's Complaint be deemed withdrawn.

The Clerk of the Court is instructed to mark this matter as closed.

SO ORDERED.

Dated: January 5, 2010
New York, New York


RICHARD J. SULLIVAN
UNITED STATES DISTRICT JUDGE

Copies Mailed To:

Steven Davis
241-09-03129
Manhattan Detention Center
125 White Street
New York, New York 10013