

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X

MAURICE A. CHINNERY,

Plaintiff,

v.

10 Civ. 882 (DAB)
ADOPTION OF REPORT
AND RECOMMENDATION

NEW YORK STATE OFFICE OF CHILDREN
AND FAMILY SERVICES and ROGER RASCO,

Defendants.

-----X

DEBORAH A. BATTIS, United States District Judge.

This matter is before the Court upon the April 24, 2013 Report and Recommendation of United States Magistrate Judge George A. Yanthis (the "Report"). Judge Yanthis's Report recommends that the Court grant Defendant Roger Rasco's Motion for Judgment on the Pleadings pursuant to Federal Rule of Civil Procedure 12(c). (Report at 2-3.)

"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 Court may adopt those portions of the Report to which no timely objection has been made, as long as there is no clear error on the face of the record. DiPilato v. 7-Eleven, Inc., 662 F. Supp. 2d 333, 339 (S.D.N.Y. 2009). "[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)

(quoting Small v. Sec'y of Health & Hum. Servs., 892 F.2d 15, 16 (2d Cir. 1989)). This rule applies to pro se parties so long as the magistrate's report "explicitly states that failure to object to the report within [fourteen (14)] days will preclude appellate review" Small, 892 F.2d at 16.

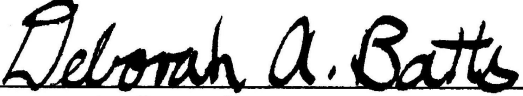
Despite being advised of the procedure for filing objections in Judge Yanthis's Report, and warned that failure to file objections would waive objections and preclude appellate review, (Report at 3-4), Plaintiff has filed no objections to the Report. Nor has any other Party filed objections to the Report. 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 George A. Yanthis, filed April 24, 2013, be and the same hereby is APPROVED, ADOPTED, and RATIFIED by the Court in its entirety. Defendant Roger Rasco's Motion for Judgment on the Pleadings is hereby GRANTED and this action is DISMISSED as against Mr. Rasco.

The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal from this Order would not be taken in good faith,

and therefore in forma pauperis status is denied for the purpose of an appeal. See Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: New York, New York
July 10, 2013



Deborah A. Batts
United States District Judge