

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DOUGLAS DUNBAR,

Plaintiff,

-v-

No. 12 Civ. 3799 (LTS)(FM)

SUPERINTENDENT BRIAN FISCHER, et al.,

Defendants.

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MEMORANDUM ORDER

Pro se plaintiff Douglas Dunbar (“Plaintiff”) commenced this action on April 19, 2012, alleging that various prison officials (“Defendants”) improperly held him in isolation for a prolonged period. On July 6, 2012, the Clerk’s Office issued a service package which, due to various logistical difficulties, Plaintiff never received. By order dated November 27, 2012, Magistrate Judge Maas directed that the Pro Se Office issue a new service package and summons and send those materials to Plaintiff at the Upstate Correctional Facility in Malone, New York. The November 27, 2012, Order further directed Plaintiff to serve the summons and complaint on Defendants by February 4, 2013, and informed Plaintiff that if service was not made by that date, and he failed to show good cause therefor, the Court would recommend dismissal of the action pursuant to Federal Rule of Civil Procedure 4(m). The Pro Se Office sent a service package to Plaintiff on November 29, 2012. To date, however, Plaintiff has not returned the documentation necessary to effect service of the summons and complaint, and has not otherwise communicated with the Court. In light of Plaintiff’s failure to effect service, Judge Maas issued a March 4, 2013, Report and Recommendation (the “Report”) recommending that Plaintiff’s case be

dismissed without prejudice. Familiarity with the Report is presumed. No objections to the Report have been received.

In reviewing a Report, the Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate.” 28 U.S.C.A. § 636(b)(1)(c) (West 2006). “In a case such as this one, where no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” Johnson v. New York University School of Education, No. 00 Civ. 8117, at \*1, 2003 WL 21433443 (S.D.N.Y. June 16, 2003). The Court has reviewed carefully Magistrate Judge Maas’ thorough Report and Recommendation and finds no clear error. The Court therefore adopts the Report in its entirety for the reasons stated therein. The Complaint in this action is hereby dismissed without prejudice, and the Clerk of Court is requested to close this case.

The Court also certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith. See Coppedge v. United States, 369 U.S. 438, 444 (1962).

SO ORDERED.

Dated: New York, New York  
May 1, 2013

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/S  
LAURA TAYLOR SWAIN  
United States District Judge

Copy mailed to:  
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