

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DOC #:
DATE FILED: May 17, 2017

Calvin Folk,

Plaintiff,

—v—

Captain Barton, Shield No. 1684, et al,

Defendants.

15 Civ. 6443 (AJN)(JCF)

ORDER

ALISON J. NATHAN, District Judge:

Before the Court is Judge Francis's Report & Recommendation ("R & R") recommending that the Court grant the Defendant's motion to dismiss plaintiff's complaint pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute. *See* Dkt. No. 30.

When considering the findings and recommendations of a magistrate judge, the Court may "accept, reject, or modify [them], in whole or in part." 28 U.S.C. § 636(b) (1). The Court must make a *de novo* determination of any portions of a magistrate's report or findings to which a party raises an objection, and reviews only for "clear error on the face of the record" when there are no objections to the R & R. *Brennan v. Colvin*, No. 13-CV-6338 (AJN) (RLE), 2015 WL 1402204, at *1 (S.D.N.Y. Mar. 25, 2015); *see also Hicks v. Ercole*, No. 09-cv-2531 (AJN)

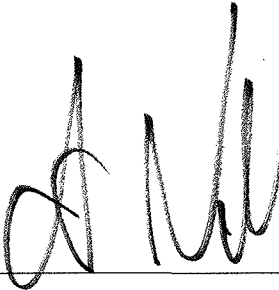
(MHD), 2015 WL 1266800, at *1 (S.D.N.Y. Mar. 18, 2015); *Gomez v. Brown*, 655 F.Supp.2d 332, 341 (S.D.N.Y. 2009). Clear error is found only when, upon review of the entire record, the Court is left with “the definite and firm conviction that a mistake has been committed.” *Laster v. Mancini*, No. 07–CV–8265 (DAB) (MHD), 2013 WL 5405468, at *2 (S.D.N.Y. Sept. 25, 2013) (quoting *United States v. Snow*, 462 F.3d 55, 72 (2d Cir. 2006)).

Objections to Judge Francis’s R & R were due by December 16, 2016. *See* Dkt. No. 30 at 9-10. As of May 16, 2017, no objections have been filed. The Court thus reviews the R & R for clear error, and finds none. The Court therefore adopts the R & R in its entirety and GRANTS Defendant’s motion to dismiss on the grounds described by Judge Francis.

SO ORDERED.

Dated: May 17, 2017

New York, New York

A handwritten signature in black ink, appearing to read 'Alison J. Nathan', is written over a horizontal line.

ALISON J. NATHAN

United States District Judge