

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

STEPHEN DRESCH,

Plaintiff,

-v-

NEW YORK CITY POLICE DEPARTMENT,
JOHN DOE 1, 2, 3, 4, and CITY OF NEW YORK,

Defendants.

19 Civ. 1693 (PAE) (KHP)

OPINION & ORDER

PAUL A. ENGELMAYER, District Judge:

On February 21, 2019, plaintiff Stephen Dresch, proceeding *pro se* and *in forma pauperis*, filed the complaint in this case. Currently pending is defendant City of New York’s motion to dismiss for failure to prosecute, pursuant to Federal Rule of Civil Procedure 41(b).¹ Dkt. 25. Before the Court is the February 3, 2020 Report and Recommendation of the Hon. Katharine H. Parker, United States Magistrate Judge, recommending that the Court grant the motion to dismiss. Dkt. 29 (“Report”). The Report explained that “because there is no indication that [Dresch] wishes to continue to litigate this action, the circumstances are sufficiently extreme to justify dismissal.” *Id.* at 4 (citing *Dones v. Smalls*, No. 17 Civ. 6038 (JPO), 2018 WL 4211314, at *1 (S.D.N.Y. Sept. 4, 2018)). The Court incorporates by reference the summary of the facts provided in the Report. For the following reasons, the Court adopts this recommendation.

¹ On March 21, 2019, the Court dismissed defendant New York City Police Department. Dkt. 6.

DISCUSSION

In reviewing a report and recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). “To accept those portions of the report to which 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.” *Ruiz v. Citibank, N.A.*, No. 10 Civ. 5950 (KPF), 2014 WL 4635575, at *2 (S.D.N.Y. Aug. 19, 2014) (quoting *King v. Greiner*, No. 02 Civ. 5810 (DLC), 2009 WL 2001439, at *4 (S.D.N.Y. July 8, 2009)); *see also, e.g., Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

As no party has submitted objections to the Report, review for clear error is appropriate. Careful review of Judge Parker’s thorough and well-reasoned Report reveals no facial error in its conclusions; the Report is therefore adopted in its entirety. Because the Report explicitly states that Dresch “shall have seventeen days from the service of this Report and Recommendation to file written objections,” and that “failure to file these timely objections will result in a waiver of those objections for purposes of appeal,” Report at 5, the parties’ failure to object operates as a waiver of appellate review. *See Caidor v. Onondaga Cty.*, 517 F.3d 601, 604 (2d Cir. 2008) (citing *Small v. Sec’y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (per curiam)).

CONCLUSION

For the foregoing reasons, the Court grants the City of New York’s motion to dismiss for failure to prosecute.

The Clerk of Court is respectfully directed to close the motion pending at docket 25, close this case, and mail a copy of this decision to plaintiff at the address on file.

SO ORDERED.


Paul A. Engelmayer
United States District Judge

Dated: May 5, 2020
New York, New York