

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

CHARLES WATSON,

Plaintiff,

v.

ORDER
08-CV-960

LESTER N. WRIGHT, ET AL.,

Defendants.

This case was referred to Magistrate Judge Jeremiah J. McCarthy, pursuant to 28 U.S.C. § 636(b)(1). Defendant Kathleen Sebelius filed a motion to dismiss the Third Amended Complaint and plaintiff filed motions for leave to file a Fourth Amended Complaint and to transfer venue. On January 11, 2011, Magistrate Judge McCarthy filed a Report and Recommendation, recommending that defendant Sebelius' motion to dismiss be granted and that plaintiff's motion for leave to amend be denied to the extent it seeks to assert an amended claim against defendant Sebelius.

Plaintiff filed objections to the Report and Recommendation on February 17, 2011 and defendants filed a response thereto.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Report and Recommendation to which objections have been made. Upon a de novo review of the Report and

Recommendation, and after reviewing the submissions, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge McCarthy's Report and Recommendation, defendant Sebelius' motion to dismiss is granted and plaintiff's motion for leave to amend is denied to the extent it seeks to assert an amended claim against defendant Sebelius.

The case is referred back to Magistrate Judge McCarthy for further proceedings.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT JUDGE

DATED: March 24, 2011