

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

LATCHMIE TOOLASPRASHAD,

Plaintiff,

v.

ORDER
11-CV-922-A

IMMIGRATION AND CUSTOMS
ENFORCEMENT,

Defendant.

This case was referred to Magistrate Judge Hugh B. Scott pursuant to 28 U.S.C. § 636(b)(1). The *pro se* complaint of plaintiff Latchmie Toolasprashad asserted that ICE failed to respond to a Freedom of Information Act (“FOIA”) request for plaintiff Toolasprashad’s immigration records. On July 17, 2012, defendant Immigration and Customs Enforcement (“ICE”) filed a motion to dismiss on grounds of lack of subject matter jurisdiction, failure to state a claim, and alternatively, for summary judgment.

The Court appointed counsel to plaintiff Toolasprashad on December 11, 2012. As a result, plaintiff’s separate counsel in related proceedings eventually received the documents plaintiff was seeking from ICE under the FOIA request.

Plaintiff Toolasprashad’s assigned counsel in this proceeding responded to the Motion to Dismiss. After due consideration, on May 14, 2013, Magistrate Judge Scott filed a Report and Recommendation recommending that the motion to dismiss and for summary judgment be granted on the ground that the proceedings are moot.

No objections to the Report and Recommendation have been filed, but plaintiff Toolasprashad sought *pro se* to dismiss the action without prejudice in a filing on August 2, 2013. Plaintiff asserted he was unable timely to file objections because he was denied meaningful access to legal materials. The Court denied the motion for voluntary dismissal without prejudice on August 6, 2013, and granted plaintiff until September 27, 2013 to file objections to the pending Report and Recommendation. No objections to the Report and Recommendation, or further filings, have been made by plaintiff's counsel, by plaintiff *pro se*, or by defendant ICE.

Upon review pursuant to Fed. R. Civ. P. 72 and 28 U.S.C. § 636, Magistrate Judge Scott's Report and Recommendation, Dkt. No. 43, is adopted. For the reasons set forth in the Report and Recommendation, defendant ICE's motion for summary judgment is granted. The Clerk shall enter judgment accordingly.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT JUDGE

DATED: September 30, 2013