

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

LUIS A. CANALES,

Plaintiff,

v.

12-CV-693

DECISION AND ORDER

M. SHEAHAN, *et al.*,

Defendants.

On July 23, 2012, the pro se plaintiff, Luis A. Canales, commenced this action. Docket Item 1. On September 22, 2015, United States District Judge Richard J. Arcara referred this case to United States Magistrate Judge Hugh B. Scott for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Docket Item 29. On March 7, 2016, this case was reassigned to the undersigned. Docket Item 35.

On August 30, 2018, the defendants moved to dismiss for failure to prosecute, Docket Item 91; on September 10, 2018, Canales responded and cross-moved for a temporary restraining order, Docket Item 93; on September 18, 2018, the defendants responded in opposition to Canales's cross-motion, Docket Item 94; and on December 3, 2018, Canales replied, Docket Item 100. On February 13, 2019, Judge Scott issued a "combined Report and Recommendation and Decision and Order" ("RRD&O")¹ finding that the defendants' motion to dismiss should be granted and that Canales's motion for a temporary restraining order should be denied. Docket Item 105. The parties did not

¹ The RRD&O also addressed Canales's non-dispositive motion for an extension of time to file initial disclosures, Docket Item 88.

object to the RRD&O, and the time to do so now has expired. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(2).

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a de novo review of those portions of a magistrate judge's recommendation to which a party objects. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). But neither 28 U.S.C. § 636 nor Federal Rule of Civil Procedure 72 requires a district court to review the recommendation of a magistrate judge to which no objections are raised. See *Thomas v. Arn*, 474 U.S. 140, 149-50 (1985).

Although not required to do so in light of the above, this Court nevertheless has reviewed Judge Scott's RRD&O as well as the parties' submissions to him. Based on that review and the absence of any objections, the Court accepts and adopts Judge Scott's careful and thoughtful recommendation to grant the defendants' motion to dismiss and deny Canales's cross-motion for a temporary restraining order.

For the reasons stated above and in the RRD&O, the defendants' motion to dismiss, Docket Item 91, is GRANTED; Canales's motion for a temporary restraining order, Docket Item 93, is DENIED; the case is dismissed; and the Clerk of the Court shall close the file.

SO ORDERED.

Dated: September 11, 2019
Buffalo, New York

s/ Lawrence J. Vilardo
LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE