

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

TOLOAN SWIFT,

Plaintiff,

v.

16-CV-407

DECISION AND ORDER

TWC ADMINISTRATION, LLC,

Defendant.

On May 24, 2016, the plaintiff commenced this action, alleging discrimination and retaliation against his former employer. Docket Item 1. On July 11, 2016, the defendant answered the complaint, Docket Item 4, and on July 12, 2016, this Court referred this case to United States Magistrate Judge Leslie G. Foschio for all pretrial proceedings under 28 U.S.C. § 636(b)(1)(A). Docket Item 6.

The parties then engaged in discovery, including the deposition of the plaintiff. After the defendant moved for summary judgment, Docket Item 43, on April 5, 2018, this Court referred this case to Judge Foschio for all proceedings, including a Report and Recommendation on the defendant's motion for summary judgment. Docket Item 44. Four days later, Judge Foschio issued a text order setting May 9, 2018, as the deadline for the plaintiff to file his response and May 23, 2018, as the deadline for the defendant's reply. Docket Item 46. The plaintiff failed to respond to defendant's motion for summary judgment by the deadline, but on May 18, 2018, the defendant replied. Docket Item 48.

On July 9, 2019, Judge Foschio issued a Report and Recommendation ("R&R"), finding that the defendant's motion should be granted. Docket Item 48. The parties did not object to the R&R, 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 Foschio's R&R as well as the parties' submissions to him. Based on that review and the absence of any objections, the Court accepts and adopts Judge Foschio's recommendation to grant the defendant's motion.

For the reasons stated above and in the R&R, the defendant's motion for summary judgment, Docket Item 43, is GRANTED. The Clerk of the Court shall close the file.

SO ORDERED.

Dated: October 2, 2019
 Buffalo, New York

s/ Lawrence J. Vilaro

LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE