

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

Lottie Crump,

Plaintiff,

v.

17-CV-45

Decision and Order

Fluid Handling, LLC,
Xylem, INC.,
Gary Majchrzak, and
Matthew Kandefer,

Defendants.

On January 13, 2017, the plaintiff commenced this action alleging employment discrimination based on her race. Docket Item 1. On April 17, 2017, this Court referred this case to United States Magistrate Judge Jeremiah J. McCarthy for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Docket Item 8.

On April 17, 2018, Fluid Handling, LLC, moved to dismiss the complaint against the individual defendants, Gary Majchrzak and Matthew Kandefer. Docket Item 25. The next day, Judge McCarthy issued a text order that denied the motion to dismiss for lack of standing but ordered the plaintiff to show cause why the complaint should not be dismissed as to the individual defendants, who had never been served. *Id.* When the plaintiff did not respond, Judge McCarthy issued a Report and Recommendation (“R&R”) recommending that the complaint be dismissed as to those two defendants. Docket Item 27. 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 McCarthy's text order to show cause and his R&R. Based on that review and the absence of any objections, the Court accepts and adopts Judge McCarthy's recommendation to dismiss the complaint, Docket Item 1, as to defendants Majchrzak and Kandefer.

For the reasons stated above and in the R&R, the complaint, Docket Item 1, is DISMISSED as to defendants Gary Majchrzak and Matthew Kandefer with prejudice. The case is referred back to Judge McCarthy for further proceedings consistent with the referral order of April 17, 2017, Docket Item 8.

SO ORDERED.

Dated: July 8, 2018
Buffalo, New York

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