

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

TODD CROSS,

Plaintiff,

v.

17-CV-906-LJV-HKS
DECISION & ORDER

TIMOTHY CONNOLLY, *et al.*,

Defendants.

On September 13, 2017, the plaintiff, Todd Cross,¹ commenced this action under the Driver's Privacy Protection Act, 18 U.S.C. §§ 2721, 2724. Docket Item 1. A short time later, he amended his complaint. Docket Item 11. On December 5, 2017, this Court referred this case to United States Magistrate Judge H. Kenneth Schroeder, Jr., for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Docket Item 17.

On January 8, 2021, the only remaining defendant,² Kristin A. Cross, moved for summary judgment. Docket Item 77. Despite two extensions of time to respond to

¹ To distinguish between the plaintiff, Todd Cross, and the defendant, Kristin A. Cross, this decision will refer to them by their first names.

² In addition to Kristin, Todd also sued Timothy Connolly, the Town of Tonawanda, and the Erie County Board of Cooperative Educational Services. Docket Item 11. These defendants filed cross-claims against each other and Kristin for indemnification or contribution in the event that they were found liable to Todd. Docket Items 38, 43. On August 25, 2020, the parties stipulated to the discontinuance of all claims and cross-claims made by or against the Erie County Board of Cooperative Education Services. Docket Items 65, 66. On January 7, 2021, Todd stipulated to the dismissal of Connolly and the Town of Tonawanda. Docket Items 76, 82. Therefore only the claims against Kristin remain.

Kristin's motion, Docket Items 80 and 84, and despite having been given notice of his obligation to oppose summary judgment, Docket Item 77-1, Todd did not respond.

On November 15, 2021, Judge Schroeder issued a Report and Recommendation ("R&R") finding that Kristin's motion should be granted, and the Clerk of the Court mailed a copy of the R&R to Todd. Docket Items 85, 86. 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). The court must review *de novo* 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 carefully reviewed Judge Schroeder's R&R. Based on that review and the absence of any objections, the Court accepts and adopts Judge Schroeder's recommendation to grant Kristin's motion.

For the reasons stated above and in the R&R, Kristin's motion for summary judgment, Docket Item 77, is GRANTED; all claims are dismissed; and the Clerk of the Court shall close the file. The Clerk of the Court shall send Todd a copy of this decision and order.

SO ORDERED.

Dated: December 28, 2021
Buffalo, New York

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