

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

v.

17-CV-1262
DECISION & ORDER

ANGELICA L. PARKS, et al.,

Defendants.

On December 5, 2017, the plaintiff commenced this action to foreclose a real property mortgage. Docket Item 1. On June 1, 2018, the plaintiff moved for summary judgment and to amend the caption, Docket Item 12, and on June 5, 2018, 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 17. On October 4, 2018, Judge McCarthy issued a Report, Recommendation and Order ("R&R") granting the plaintiff's motion to the extent it seeks to amend the caption but recommending that the motion otherwise be denied. Docket Item 22. 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 R&R. Based on that review and the absence of any objections, the Court accepts and adopts Judge McCarthy's recommendation to deny the plaintiff's motion for summary judgment, fees, and costs. Because Judge McCarthy granted the non-dispositive motion to amend the caption and no party has challenged that decision, there is no need for this Court to address that issue.

For the reasons stated above and in the R&R, the plaintiff's motion for summary judgment and to amend the caption, Docket Item 12, is DENIED in part. More specifically, the motion for summary judgment and for attorney's fees and costs is denied. The case is referred back to Judge McCarthy for further proceedings consistent with the referral order of June 5, 2018, Docket Item 17.

SO ORDERED.

Dated: November 5, 2018
Buffalo, New York

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