

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

KRYSTIAN DROZD,

Plaintiff,

v.

18-CV-00185-LJV-JJM
DECISION & ORDER

TEAMSTERS LOCAL 449 UNION
PRESIDENT,

Defendant.

On February 2, 2018, the pro se plaintiff, Krystian Drozd, commenced this action under Title VII of the Civil Rights Act of 1964. Docket Item 1. On October 8, 2019, 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 5. In the meantime, on September 30, 2019, the defendant, the Teamsters Local 449 Union President, moved to dismiss. Docket Item 5. Drozd did not respond to the defendant's motion.

On September 21, 2020, Judge McCarthy issued a Report and Recommendation ("R&R") finding that the defendant's motion should be granted. Docket Item 9. 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 reviewed Judge McCarthy'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 McCarthy's recommendation to grant the defendant's motion.

For the reasons stated above and in the R&R, the defendant's motion to dismiss, Docket Item 5, is GRANTED; the complaint, Docket Item 1, is dismissed; and the Clerk of the Court shall close the file.

The Court hereby certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this judgment would not be taken in good faith and therefore denies leave to appeal as a poor person. *Coppedge v. United States*, 369 U.S. 438 (1962). Drozd must file any notice of appeal with the Clerk's Office, United States District Court, Western District of New York, within 30 days of the date of judgment in this action. Requests to proceed on appeal as a poor person must be filed with the United States Court of Appeals for the Second Circuit in accordance with the requirements of Rule 24 of the Federal Rules of Appellate Procedure.

SO ORDERED.

Dated: October 13, 2020
Buffalo, New York

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