

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

DONALD C. BLOCHER,

Plaintiff,

v.

19-CV-1295-LJV-LGF
DECISION & ORDER

DETECTIVE KENNETH RICE, *et al.*,

Defendants.

On September 20, 2019, the plaintiff, Donald C. Blocher, commenced this action under 42 U.S.C. § 1983, Docket Item 1; on April 23, 2020, Blocher filed an amended complaint, Docket Item 7. On December 23, 2020, Blocher moved for default judgment against two of the three defendants named in the amended complaint: Detective Kenneth Rice and Edward L. Armstrong, as administrator of the Estate of Adult Protective Service worker Glenda Armstrong. Docket Item 13. On December 30, 2020, this Court referred this case to United States Magistrate Judge Leslie G. Foschio for all proceedings under 28 U.S.C. § 636(b)(1)(A) and (B). Docket Item 17. On January 2, 2021, Rice and Armstrong responded to Blocher's motion for default judgment, Docket Item 18-5, and on January 8, 2021, Blocher replied, Docket Item 19. On September 8, 2021, Judge Foschio issued a Report and Recommendation ("R&R") finding that the plaintiff's motion should be denied. Docket Item 24.¹ The parties did not object to the

¹ Judge Foschio also denied Blocher's alternative request for entry of a default and granted Rice and Armstrong's cross-motion for an enlargement of time to answer the amended complaint. See Docket Item 24 at 6-12. The parties did not ask this Court to review either of those orders.

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 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 deny the plaintiff's motion for default judgment.

For the reasons stated above and in the R&R, the plaintiff's motion for default judgment, Docket Item 13, is DENIED. The case is referred back to Judge Foschio for further proceedings consistent with the referral order of December 30, 2020, Docket Item 17.

SO ORDERED.

Dated: September 29, 2021
Buffalo, New York

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