

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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DARON ERLE DRISCOLL,

Plaintiff,

v.

CORRECTIONAL OFFICER  
WASHBURN,

Defendant.

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**ORDER**

6:17-CV-06839 EAW

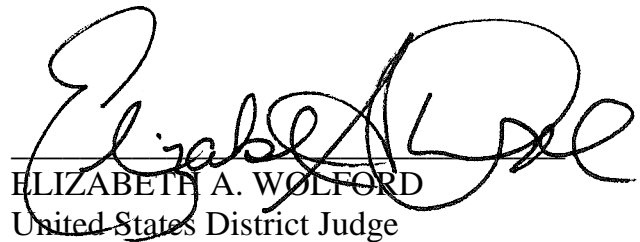
This case was referred for all pretrial matters excluding dispositive motions to United States Magistrate Judge Mark W. Pedersen pursuant to 28 U.S.C. §§ 636(b)(1)(A)-(C). (Dkt. 13). On July 28, 2020, Magistrate Judge Pedersen issued an Order to Show Cause pursuant to Local Rule of Civil Procedure 41(b) based on Plaintiff's failure to appear by telephone at a motion hearing on April 15, 2020, and failure to contact either the Court or opposing counsel since that date. (Dkt. 29). After Plaintiff failed to respond, on September 4, 2020, Judge Pedersen issued a thorough Report and Recommendation recommending that Plaintiff's Amended Complaint be dismissed pursuant to Local Rule 41(b). The Report and Recommendation sets forth the procedural background in further detail, familiarity with which is assumed for purposes of this Order.

Pursuant to Federal Rule of Civil Procedure 72(b)(2) and 28 U.S.C. § 636(b)(1), the parties had 14 days to file objections. No objections were filed. The Court is not required to review *de novo* those portions of a report and recommendation to which objections were not filed. *See Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) ("Where

parties receive clear notice of the consequences, failure [to timely] object to a magistrate's report and recommendation operates as a waiver of further judicial review of the magistrate's decision.").

Notwithstanding the lack of objections, the Court has conducted a careful review of the Report and Recommendation as well as the filings previously made in the case, and finds no reason to reject or modify the Report and Recommendation. For the reasons set forth in the Report and Recommendation (Dkt. 30), this Court dismisses the Amended Complaint (Dkt. 5). The Clerk of Court is directed to close the case.

SO ORDERED.



ELIZABETH A. WOLFORD  
United States District Judge

Dated: September 24, 2020  
Rochester, New York