

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
MEDFORD DIVISION

G. SMITH,

Plaintiff,

No. 1:17-cv-00712-CL

v.

ORDER

JILL LIMERICK,

Defendant.

AIKEN, District Judge.

This case comes before the Court on a Findings and Recommendation filed by Magistrate Judge Mark Clarke on June 28, 2021. ECF No. 135. Judge Clarke recommends that Plaintiff's Motion for Relief from this Court's prior order, ECF No. 127, be denied. Judge Clarke also recommends that Defendant's Motion to Dismiss and Motion to Strike, ECF No. 130, be granted in part and denied in part.

Under the Federal Magistrates Act, the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge."

28 U.S.C. § 636(b)(1). If a party files objections to a magistrate judge’s findings and recommendations, “the court shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate judge’s findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”). Although no review is required in the absence of objections, the Magistrates Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Id.* at 154. The Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court should review the recommendation for “clear error on the face of the record.”

In this case, Plaintiff has filed Objections, ECF No. 138. The Court has reviewed the record and the disputed portions of the F&R and finds no error. The F&R, ECF No. 135, is ADOPTED. Plaintiff’s Motion for Relief, ECF No. 127, is DENIED. Defendant’s Motion to Dismiss and to Strike, ECF No. 130, is GRANTED in part and DENIED in part as set forth in the F&R.

It is so ORDERED and DATED this 1st day of September 2021.

/s/Ann Aiken
ANN AIKEN
United States District Judge