IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF OREGON

PORTLAND DIVISION

MARY JO PULLEN-HUGHES,	)	No. 3:11-CV-01271-PK
	)	
Plaintiff,	)	
	)	
v.	)	**OPINION AND ORDER ADOPTING FINDINGS & RECOMMENDATION**
	)	
CITY OF PORTLAND, et al.,	)	
	)	
Defendants.	)	
	)	

SIMON, District Judge.

On November 2, 2011, Magistrate Judge Paul Papak granted Mary Jo Pullen-Hughes' application to proceed *in forma pauperis.* He also recommended that her complaint be dismissed without prejudice and with leave to file an amended complaint within thirty days correcting the numerous deficiencies he identified and described in his Findings and Recommendation (#4). If Ms. Pullen-Hughes does not file an amended complaint within thirty days, Judge Papak recommends her complaint be dismissed with prejudice.

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." Federal Magistrates Act, 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate'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). If, however, no objections are filed, the Magistrates Act does not prescribe any standard of review. In such cases, "[t]here is no indication that Congress, in enacting [the Magistrates Act], intended to require a district judge to review a magistrate's report[.]" *Thomas v. Arn*, 474 U.S. 140, 152 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir.) (*en banc*), *cert. denied*, 540 U.S. 900 (2003) (the court must review *de novo* the magistrate's findings and recommendations if objection is made, "but not otherwise"). Although in the absence of objections no review is required, the Magistrates Act "does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard." *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Federal Rule of Civil Procedure 72(b) recommend that "[w]hen no timely objection is filed," the court review the magistrate's findings and recommendations for "clear error on the face of the record."

This court has reviewed Magistrate Judge Papak's Findings and Recommendation for clear error. No error is apparent. Therefore, the court orders that Judge Papak's Findings and Recommendation (#4) is ADOPTED. The plaintiff has thirty days to file an amended complaint that corrects the deficiencies identified in the Findings and Recommendation. After thirty days, if no amended complaint has been filed, the case will be dismissed with prejudice.

Dated this 2nd day of April, 2012.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge