

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

ANDREW MILLBROOKE,

Plaintiff,

v.

CITY OF CANBY, OFFICER MURPHY,
personally, **BRET SMITH,** both individually
and in his capacity as Police Chief,

Defendant.

Case No. 3:12-cv-00168-AC

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge John V. Acosta issued Findings and Recommendation in this case on February 4, 2014. Dkt. 53. Judge Acosta recommended that Plaintiff Andrew Millbrooke's ("Millbrooke") Motion for Leave to File Amended Complaint (Dkt. 46) be denied. No party has filed objections.

Under the Federal Magistrates Act ("Act"), the court may "accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate's findings and recommendation, "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 no party objects, 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[.]”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (the court must review de novo magistrate’s findings and recommendation if objection is made, “but not otherwise”).

Although review is not required in the absence of objections, the 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 Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court review the magistrate’s findings and recommendation for “clear error on the face of the record.”

No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews Judge Acosta’s Findings and Recommendation for clear error on the face of the record. No such error is apparent. Accordingly, the Court **ADOPTS** Judge Acosta’s Findings and Recommendation, Dkt. 53. Millbrooke’s Motion for Leave to File Amended Complaint, Dkt. 46, is **DENIED**.

IT IS SO ORDERED.

DATED this 24th day of February, 2014.

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