

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

**WILLIAM DILLON, SCOTT GRAUE, and
DAVID HODGES, individually, on behalf of
a class of others similarly situated,**

Plaintiffs,

v.

**CLACKAMAS COUNTY and CRAIG
ROBERTS, individually and in his official
capacity as Sheriff of Clackamas County**

Defendants.

Case No. 3:14-cv-00820-ST

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Janice M. Stewart issued a Findings and Recommendation in this case on October 23, 2014. Dkt. 24. Judge Stewart recommended that Defendants' motion to dismiss be granted in part and denied in part, with leave granted to Plaintiffs to file an amended complaint. 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)(C). 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 no party objects, however, 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.”). Nor does the Act “preclude further review by the district judge[] sua sponte . . . under a de novo or any other standard.” *Thomas*, 474 U.S. at 154. And 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 recommendations for “clear error on the face of the record.”

As no party has made objections, this Court follows the recommendation of the Advisory Committee and reviews Judge Stewart’s Findings and Recommendation for clear error on the face of the record. No such error is apparent. Accordingly, the Court ADOPTS Judge Stewart’s Findings and Recommendation, Dkt. 24. Defendants’ motion to dismiss (Dkt. 9) is GRANTED in part and DENIED in part. Plaintiffs’ motion for leave to file a second amended complaint (Dkt. 19) is GRANTED, but Plaintiffs are ordered to file an amended complaint which complies with Judge Stewart’s rulings on Defendants’ motion to dismiss.

IT IS SO ORDERED.

DATED this 2d day of December, 2014.

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