

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

ANASTASIOS (TOMMY) KALOMIRIS,	:	CIVIL ACTION NO. 1:08-CV-0539
	:	
Plaintiff	:	(Judge Conner)
	:	
v.	:	
	:	
GEORGE WARDEN,	:	
	:	
Defendant	:	

ORDER

AND NOW, this 27th day of April, 2010, upon consideration of the report of the magistrate judge (Doc. 99), recommending that defendant’s motion (Doc. 92) for summary judgment be granted, and further recommending that defendant’s motion (Doc. 87) for sanctions be denied as moot, and, following an independent review of the record, it appearing that the amended complaint in the above-captioned matter alleges that defendant, the Prothonotary and Clerk of the Court of Common Pleas of Monroe County, Pennsylvania, “[f]ailed to take any complaints” from plaintiff, (Doc. 56 at 10), and the court noting that the magistrate judge finds that plaintiff “does not demonstrate . . . that he would be able to prove the claim[,]” (Doc. 99 at 10), and that the magistrate judge concludes that “defendant has established entitlement to summary judgment in his favor and against the plaintiff because . . . there is not a dispute as to a material issue of fact and defendant Warden is entitled to judgment in his favor as a matter of law[,]” (*id.* at 11), See FED. R. CIV. P. 56(c) (“The judgment sought should be rendered if the pleadings, the discovery and disclosure materials on file, and any affidavits show that there is no genuine issue

as to any material fact and that the movant is entitled to judgment as a matter of law.”), and it further appearing that neither party has objected to the magistrate judge’s report and recommendation,¹ and that there is no clear error on the face of the record,² see Nara v. Frank, 488 F.3d 187, 194 (3d Cir. 2007) (explaining that “failing to timely object to [a report and recommendation] in a civil proceeding may result in forfeiture of *de novo* review at the district court level”), it is hereby

ORDERED that:

1. The report of the magistrate judge (Doc. 99) is ADOPTED.
2. The motion (Doc. 92) for summary judgment is GRANTED. See FED. R. CIV. P. 56(c).
3. The motion (Doc. 87) for sanctions is DENIED as moot.

¹ Objections were due by March 22, 2010. As of the date of this order, none have been filed.

² When parties fail to file timely objections to a magistrate judge’s report and recommendation, the Federal Magistrates Act does not require a district court to review the report before accepting it. Thomas v. Arn, 474 U.S. 140, 149 (1985). As a matter of good practice, however, the Third Circuit expects courts to “afford some level of review to dispositive legal issues raised by the report.” Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987). The advisory committee notes to Rule 72(b) of the Federal Rules of Civil Procedure indicate that “[w]hen no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” FED. R. CIV. P. 72(b), advisory committee notes; see also Henderson, 812 F.2d at 878-79 (stating that “the failure of a party to object to a magistrate’s legal conclusions may result in the loss of the right to *de novo* review in the district court”); Tice v. Wilson, 425 F. Supp. 2d 676, 680 (W.D. Pa. 2006) (holding that the court’s review is conducted under the “plain error” standard); Cruz v. Chater, 990 F. Supp. 375-78 (M.D. Pa. 1998) (holding that the court’s review is limited to ascertaining whether there is “clear error on the face of the record”); Oldrati v. Apfel, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998) (holding that the court will review the report and recommendation for “clear error”). The court has reviewed the magistrate judge’s report and recommendation in accordance with this Third Circuit directive.

4. The Clerk of Court is directed to enter JUDGMENT in favor of defendant and against plaintiff on all claims.
5. The Clerk of Court is instructed to CLOSE this case.

S/ Christopher C. Conner
CHRISTOPHER C. CONNER
United States District Judge