

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

WILLIAM MULDOWNEY,	:	CIVIL ACTION NO. 1:10-CV-2555
Plaintiff,	:	
	:	(Chief Judge Conner)
v.	:	
	:	
K-MART CORPORATION, et al.,	:	
Defendants.	:	

ORDER

AND NOW, this 18th day of November, 2013, upon consideration of the report and recommendation of Magistrate Judge Karoline Mehalchick (Doc. 61), recommending the court grant in part and deny in part the motion (Doc. 22) for summary judgment filed by the defendants, and, after an independent review of the record, and noting that the defendants filed objections¹ (Doc. 62) to the report on October 11, 2013, and that plaintiff filed a response (Doc. 63) to defendants' objections on October 31, 2013, and the court finding Judge Mehalchick's analysis to be thorough, well-reasoned, and fully supported

¹ Where objections to a magistrate judge's report and recommendation are filed, the court must perform a *de novo* review of the contested portions of the report. Supinski v. United Parcel Serv., Civ. A. No. 06-0793, 2009 WL 113796, at *3 (M.D. Pa. Jan. 16, 2009) (citing Sample v. Diecks, 885 F.2d 1099, 1106 n. 3 (3d Cir. 1989); 28 U.S.C. § 636(b)(1)(c)). "In this regard, Local Rule of Court 72.3 requires 'written objections which . . . specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for those objections.'" Id. (citing Shields v. Astrue, Civ. A. No. 07-417, 2008 WL 4186951, at *6 (M.D. Pa. Sept. 8, 2008)).

by the record, and the court further finding defendants' objections to be without merit² and squarely addressed by Judge Mehalchick's report, it is hereby ORDERED that:

1. The report (Doc. 61) of Magistrate Judge Mehalchick recommending that the court grant in part and deny in part the defendants' motion (Doc. 22) for summary judgment is ADOPTED in its entirety.
2. Defendants' motion (Doc. 22) for summary judgment is DENIED with respect to Count II of the complaint and GRANTED with respect to Counts I and III of the complaint.
3. A revised case management schedule will issue by separate order.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania

² Defendants object to the magistrate judge's determinations at the first and third stages of the three-step burden-shifting framework established in McDonnell Douglas Corp. v. Green, 411 U.S. 792 (1973), contending that plaintiff has failed to establish a *prima facie* case of retaliation and that he has further failed to show that the defendants' proffered legitimate reasons for his termination are mere pretext for retaliation. Upon a review of the factual record before the court, and considering the same in the light most favorable to the non-moving party, the court fully agrees with Magistrate Judge Mehalchick's analysis. The court will thus adopt the report in its entirety and schedule this matter for trial.