

UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

BYRON SHANE CHUBBUCK, Plaintiff	: : :	
v.	: : : : : :	CIVIL NO. 1:14-CV-01847
UNITED STATES OF AMERICA, Defendant	: : :	

ORDER

AND NOW, this 27th day of October, 2015, upon consideration¹ of Magistrate Judge Saporito's Report and Recommendation ("R&R"), IT IS ORDERED that:

- (1) Judge Saportio's R&R (Doc. 34) is ADOPTED.²
- (2) Plaintiff's complaint (Doc. 1) is DISMISSED without prejudice.
- (3) Leave to amend is DENIED as futile.
- (4) The Government's motion (Doc. 17) for summary judgment is DENIED as moot.
- (5) The Clerk of Court shall CLOSE this case.

/s/ William W. Caldwell
William W. Caldwell
United States District Judge

¹ The Court must conduct a *de novo* review of the contested portions of an R&R, *Sample v. Diecks*, 885 F.2d 1099, 1106 n. 3 (3d Cir. 1989) (citing 28 U.S.C. § 636(b)(1)(c)), provided the objections are both timely and specific, *Goney v. Clark*, 749 F.2d 5, 6–7 (3d Cir. 1984). The Court, at minimum, should review uncontested portions of an R&R for clear error or manifest injustice. *See, e.g., Cruz v. Chater*, 990 F.Supp. 375, 376–77 (M.D. Pa. 1998).

² In a recent filing, (Doc. 35), plaintiff complains about Judge Saporito's footnote, (Doc. 34, at 1 n. 1), that has no bearing on the proposed recommendations or pertinent contents of the report; therefore, to the extent plaintiff's filing can be construed as an objection, it is overruled as inconsequential.