

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

**ANTONIO VALENTINO
FARRELL,**

Plaintiff

v.

**COUNTY PRISON
COMMANDING SGT. ON
3/21/2021, et al.,**

Defendants

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CIVIL ACTION NO. 1:21-2083

(JUDGE MANNION)

ORDER

Pending before the court is the report of Magistrate Judge Susan E. Schwab which recommends that the plaintiff's complaint be dismissed in accordance with Fed.R.Civ.P. 41(b). (Doc. 13). The plaintiff has failed to file any objections to Judge Schwab's report.

Where no objection is made to a report and recommendation, the court should, as a matter of good practice, 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 Univac Dental Co. v. Dentsply Intern., Inc.*, 702 F.Supp.2d 465, 469 (M.D.Pa. 2010) (citing *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give

some review to every report and recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. §636(b)(1); Local Rule 72.31.

As discussed in Judge Schwab's report, it appears that the plaintiff has abandoned this action having filed nothing with the court since shortly after initiating this action back in December 2021. After having considered the *Poulis*¹ factors, Judge Schwab determined that dismissal of the instant action is warranted. As stated previously, the plaintiff has not objected to any part of Judge Schwab's report and recommendation. In fact, once again, his mail was returned from his last known address indicating "Return to Sender – NOT HERE."

Upon review, the court finds no clear error of record. Moreover, the court agrees with the sound reasoning which led Judge Schwab to her conclusion that the plaintiff's complaint should be dismissed. As such, the court will adopt the report and recommendation as the decision of the court.

¹ *Poulis v. State Farm Fire & Cas. Co.*, 747 F.2d 863, 868 (3d Cir. 1984).

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

- (1) The report and recommendation of Judge Schwab (Doc. 13) is ADOPTED IN ITS ENTIRETY AS THE DECISION OF THE COURT.**
- (2) The plaintiff's complaint (Doc. 1) is DISMISSED pursuant to the provisions of Fed.R.Civ.P. 41(b).**
- (3) The Clerk of Court is directed to CLOSE THIS CASE.**



MALACHY E. MANNION
United States District Judge

DATE: November 16, 2022

21-2083-01