

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

2012 DEC 20 PM 4: 11

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Allen Rheume,)
)
Plaintiff,)
)
v.) Case No. 5:11-cv-72
)
Andrew Pallito, Susan Onderwyzer,)
Jackie Kotkin, David Peebles,)
Michele Young, Cullen Bullard,)
Keith Talon, Krista Prior,)
Marshall Rich, Tom Rowden,)
Sandra Olberg, Tammy Kennison,)
Georgia Cummings, Jerri Brouillette,)
Tammy Smith, Steve Hoke,)
Anita Carbonell, Lynn Roberto,)
Sue Random Kelly, Edward Holtrop,)
and Heather Ward,)
)
Defendants.)

**OPINION AND ORDER ADOPTING MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION**

(Docs. 57, 62 and 67)

This matter came before the court for a review of the Magistrate Judge's November 15, 2012 Report and Recommendation (R & R) in regards to two motions filed by the parties. Defendants, who are officials at the Vermont Department of Corrections, have moved to dismiss Plaintiff Allen Rheume's claims for violations of the Eighth and Fourteenth Amendments and the Equal Protection Clause. Mr. Rheume, a self-represented Vermont inmate, has moved to Compel Discovery. Neither party has objected to the R & R, and the deadline for doing so has expired.

A district judge must make a *de novo* determination of those portions of a magistrate judge's report and recommendation to which an objection is made. FED. R.

Civ. P. 72(b); 28 U.S.C. § 636(b)(1); *Cullen v. United States*, 194 F.3d 401, 405 (2d Cir. 1999). The district judge may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1); *accord Cullen*, 194 F.3d at 405. A district judge, however, is not required to review the factual or legal conclusions of the magistrate judge as to those portions of a report and recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). When 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. *See Campbell v. United States Dist. Court*, 501 F.2d 196, 206 (9th Cir. 1974), *cert. denied*, 419 U.S. 879 (1974).

In his sixteen page R & R, the Magistrate Judge carefully reviewed the factual record and the two motions before the court. He determined that the Defendants’ Motion to Dismiss should be denied. He further ordered that Defendants file a response to Mr. Rheume’s Motion to Compel.

The court agrees with the Magistrate Judge’s conclusions. For the foregoing reasons, the court hereby ADOPTS the Magistrate Judge’s R & R as the court’s Order and Opinion, DENIES Defendants’ Motion to Dismiss, and ORDERS Defendants to file a response to Plaintiff’s Motion to Compel by January 21, 2013.

SO ORDERED.

Dated at Rutland, in the District of Vermont, this 20th day of December, 2012.



Christina Reiss, Chief Judge
United States District Court