

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

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DARREN BRADY,)
)
 Plaintiff,)
)
 v.) Case No. 5:12-cv-41
)
 CHITTENDEN CORRECTIONAL)
 FACILITY,)
)
 Defendant.)

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

(Docs. 7, 10)

This matter came before the court for a review of the Magistrate Judge's October 18, 2012 Report and Recommendation (R & R) regarding a motion to dismiss filed by Defendant. Defendant has moved to dismiss Plaintiff Darren Brady's claims for violations of his constitutional rights and his rights under the Americans with Disabilities Act of 1990. Neither party has objected to the R & R, and the deadline for doing so has expired. Plaintiff has, however, submitted an "Amendment to Complaint and Discovery Request", which are not ripe, and which shall be addressed in a separate Order.

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,

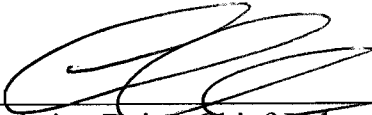
150 (1985). When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. *See Campbell v. United States Dist. Court*, 501 F.2d 196, 206 (9th Cir. 1974), *cert. denied*, 419 U.S. 879 (1974).

In his twelve page R & R, the Magistrate Judge carefully reviewed the factual record and the motion before the court. He determined that Plaintiff's claims of violations of his constitutional rights and his rights under the Americans with Disabilities Act of 1990 should be dismissed. He further determined that Plaintiff should be permitted to amend his complaint if he so chooses.

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, and GRANTS Defendant's motion to dismiss. Plaintiff is hereby GRANTED thirty (30) days to file an Amended Complaint. He has complied with the deadline by filing an "Amendment to Complaint" on November 20, 2012.

SO ORDERED.

Dated at Rutland, in the District of Vermont, this 27th day of November, 2012.



Christina Reiss, Chief Judge
United States District Court