

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

JOHN DeROSIER,

Plaintiff,

**5:18-cv-919
(GLS/DEP)**

v.

DUSTIN M. CZARNY et al.,

Defendants.

ORDER

On May 24, 2019, Chief Magistrate Judge David E. Peebles issued a Report and Recommendation (R&R), which recommends that: (1) the motions for summary judgment filed by defendants Peter S. Kosinski, Douglas A. Kellner, Andrew J. Spano, Gregory P. Peterson, Dustin M. Czarny, and Michele L. Sardo, (Dkt. Nos. 19, 21), be granted; (2) plaintiff John DeRosier's cross motion for summary judgment, (Dkt. No. 24), be denied; and (3) DeRosier's complaint, (Compl., Dkt. No. 1), be dismissed. (Dkt. No. 32 at 32.) Pending before the court are DeRosier's objections to the R&R. (Dkt. No. 35.)

Objections are limited by the Local Rules to no more than twenty-five pages without prior leave of the court. See N.D.N.Y. L.R. 72.1(c).

DeRosier's objections consist of forty-four pages. (Dkt. No. 35.) Although DeRosier requested an extension of time to file his objections to the R&R, (Dkt. No. 33), which was granted, (Dkt. No. 34), he did not request, and was not granted, leave to file objections that exceeded the twenty-five page limit. Given this flouting of the Local Rules by a represented party, the court would be justified in either rejecting the objections altogether or considering only the first twenty-five pages.

However, even if the court considered all forty-four pages of his objections, DeRosier merely rehashes arguments previously presented to and rejected by Judge Peebles, triggering review for clear error only. (*Compare* Dkt. No. 24-5 at 5, 11-12, 20-22, *with* Dkt. No. 35 at 1-2, 6-8, 16-17); *see Almonte v. N.Y. State Div. of Parole*, No. Civ. 904CV484, 2006 WL 149049, at *4 (N.D.N.Y. Jan. 18, 2006) (explaining that resubmitting the same arguments previously made "fails to comply with the specificity requirement"). The objections also raise new arguments not presented to Judge Peebles with the initial briefing, also triggering review for clear error only. (*See, e.g.,* Dkt. No. 35 at 23-24); *Smith v. Hulihan*, No. 11 CV 2948, 2012 WL 4928904, at *1 (S.D.N.Y. Oct. 17, 2012) ("[N]ew arguments and factual assertions cannot properly be raised for the first time in objections to the R&R, and indeed may not be deemed objections at all."). Out of an

abundance of caution, the court has nonetheless considered the entirety of the R&R for clear error. After carefully reviewing the R&R and DeRosier's objections, and finding no clear error—or error of any kind—the R&R, (Dkt. No. 32), is adopted in its entirety.

Accordingly, it is hereby

ORDERED that the R&R (Dkt. No. 32) is **ADOPTED** in its entirety; and it is further

ORDERED that defendants' motions for summary judgment (Dkt. Nos. 19, 21) are **GRANTED**; and it is further

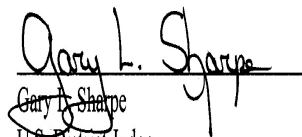
ORDERED that plaintiff's cross motion for summary judgment (Dkt. No. 24) is **DENIED**; and it is further

ORDERED that plaintiff's complaint (Compl.) is **DISMISSED**; and it is further

ORDERED that the clerk provide a copy of this Order to the parties in accordance with the Local Rules of Practice.

IT IS SO ORDERED.

September 26, 2019
Albany, New York



Gary L. Sharpe
U.S. District Judge