

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO  
Judge R. Brooke Jackson

Civil Action No.: 18-cv-00864-RBJ-STV

LOUIS MICHAEL ZAMORA,

Plaintiff,

v.

BAKER HUGHES,

Defendant.

---

**ORDER**

---

This matter is before the Court on the October 4, 2018 Recommendation of Magistrate Judge Scott T. Varholak, ECF No. 31. The Recommendation addresses defendant's motion to dismiss plaintiff's amended complaint for failure to state a claim, ECF No. 20. Magistrate Judge Varholak recommends that I grant defendant's motion to the extent it seeks dismissal of plaintiff's retaliation claims and plaintiff's Americans with Disabilities Act discrimination claim, but that I deny defendant's motion to the extent it seeks dismissal of plaintiff's claim under the Age Discrimination in Employment Act. The Recommendation is incorporated herein by reference. *See* 28 U.S.C. § 636(b)(1)(B); Fed. R. Civ. P. 72(b).

The Recommendation advised the parties that specific written objections were due within fourteen (14) days after being served with a copy of the Recommendation. ECF No. 31 at 17. Citing law from the Tenth Circuit, it specifically advised that "[a] general objection that does not put the district court on notice of the basis for the objection will not preserve the objection for de novo review." *Id.* Despite this advisement, plaintiff filed a motion for de novo review, ECF No.

32, fifteen days after the issue of the Recommendation. This motion was also filed without any specific objections. Instead, plaintiff states that he “‘Reserves all Rights Without Prejudice,’ as stated on the Amended Complaint above the signature line,” and asks for a hearing, but does not indicate which issues in the Recommendation he objects to or would like a hearing to discuss.

*Id.* Because he has no objection “that is sufficiently specific to focus the district court’s attention on the factual and legal issues that are truly in dispute,” plaintiff waives his right to de novo review. *United States v. One Parcel of Real Prop.*, 73 F.3d 1057, 1060 (10th Cir. 1996) (“Just as a complaint stating only ‘I complain’ states no claim, an objection stating only ‘I object’ preserves no issue for review.” (internal citation omitted)).

This Court takes into consideration that plaintiff proceeds pro se, and “[a] pro se litigant’s pleadings are to be construed liberally and held to a less stringent standard than formal pleadings drafted by lawyers.” *Hall v. Bellmon*, 935 F.2d 1106, 1110 (10th Cir. 1991) (citing *Haines v. Kerner*, 404 U.S. 519, 520-21 (1972)). However, the Court cannot “assume the role of advocate for the pro se litigant,” *Hall*, 935 F.2d at 1110, and is unable to construe liberally objections that were not made.

“In the absence of timely objection, the district court may review a magistrate . . . [judge’s] report under any standard it deems appropriate.” *Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir.1991) (citing *Thomas v. Arn*, 474 U.S. 140, 150 (1985)) (stating that “[i]t does not appear that Congress intended to require district court review of a magistrate’s factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings”).

The Court has reviewed the relevant pleadings concerning the Recommendation. Based on this review, the Court concludes that the Magistrate Judge’s analyses and recommendations

are correct, and that “there is no clear error on the face of the record.” Fed. R. Civ. P. 72 advisory committee’s note. Within its discretion, the Court has also conducted a de novo review of Magistrate Judge Varholak’s Recommendation. Based upon that review, which involved reading the plaintiff’s first amended complaint, ECF No. 7, Judge Babcock’s order to dismiss in part and to draw case, ECF No. 8, the defendant’s motion to dismiss, ECF No. 20, the parties’ briefs, ECF No. 29, ECF No. 30, and Magistrate Judge Varholak’s Recommendation, ECF No. 31, I agree with his factual and legal conclusions. Therefore, the Court ADOPTS the Recommendation as the findings and conclusions of this Court.

Accordingly, it is ORDERED that the Recommendation of United States Magistrate Judge Varholak [ECF No. 31] is AFFIRMED and ADOPTED and defendant’s motion to dismiss [ECF No. 20] is GRANTED IN PART and DENIED IN PART.

DATED this 23rd day of January, 2019.

BY THE COURT:

A handwritten signature in black ink, appearing to read "R. Brooke Jackson", with a long, sweeping horizontal stroke extending to the right.

---

R. Brooke Jackson  
United States District Judge