



## **Calvin Latimer and Sandra Latimer v. City of Charlotte**

2013 | Cited 0 times | W.D. North Carolina | April 29, 2013

### **ORDER**

THIS MATTER comes before the Court on Defendant's Motion to Dismiss, (Doc. No. 17), Motion to Set Aside Default, (Doc. No. 19), and supporting memoranda, Plaintiff's Response to Order to Show Cause, (Doc. No. 24), and the Magistrate Judge's Memorandum and Recommendations, (M&R), (Doc. No. 26). The parties were advised in the M&R filed on February 12, 2013 that they had two weeks to file objections with this Court. That time has since passed and no objections have been filed by either party. For the reasons stated below, the Court GRANTS the Defendant's Motion to Set Aside Default and Motion to Dismiss this case.

### **I. STANDARD OF REVIEW**

The Federal Magistrate Act provides that "a district court shall make a de novo determination of those portions of the report or specific proposed findings recommendations to which objection is made." 28 U.S.C. § 636(b)(1); *Camby v. Davis*, 718 F.2d 198, 200 (4th Cir. 1983). In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must "only satisfy that there is no clear error on the face of the record in order to accept the recommendation." *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee's note).

### **II. CONCLUSION**

The Magistrate Judge issued his M&R on February 12, 2013. (Doc. No. 26). Plaintiff has not filed any objection to the Magistrate Judge's thorough examination and denial of Plaintiff's claims. This Court finds no clear error with the Magistrate Judge's recommendation and concludes that the findings of fact are supported by the record and the conclusions of law are consistent with and supported by relevant case law. Accordingly, this Court hereby accepts the Magistrate Judge's M&R and adopts it as the final decision of the Court for all purposes related to this case.

IT IS, THEREFORE, ORDERED that:

1. The Magistrate Judge's M&R (Doc. No. 26) is ADOPTED
2. Defendant's Motion to Dismiss Amended Complaint (Doc. No. 17) is GRANTED



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3. Defendant's Motion to Set Aside Default (Doc. No. 19) is GRANTED
4. Plaintiff's Second Amended Complaint is DISMISSED with prejudice

