

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION  
CIVIL ACTION NO. 5:24-CV-00192-KDB-SCR**

**WALTER KEVIN CARPENTER,**

**Plaintiff,**

**v.**

**BRIAN KEITH WHITENER,  
KEVIN YODER, AND  
CITY OF NEWTON,**

**Defendants.**

**MEMORANDUM AND  
ORDER**

**THIS MATTER THIS MATTER** is before the Court on Defendants’ Motion to Dismiss (Doc. No. 9); the Memorandum and Recommendation (“M&R”) of the Honorable Magistrate Susan C. Rodriguez (Doc. No. 12), recommending that Defendants’ Motion be granted in part and denied in part.<sup>1</sup> The parties have not filed an objection to the M&R, and the time for doing so has expired. Fed. R. Civ. P. 72(b)(2).

**I. BACKGROUND**

No party has objected to the Magistrate Judge’s statement of the factual and procedural background of this case. Therefore, the Court adopts the facts as set forth in the M&R. *See Thomas v. Arn*, 474 U.S. 140, 149–50 (1985) (explaining the Court is not required to review, under *a de novo* or any other standard, the factual or legal conclusions of the magistrate judge to which no objections have been raised).

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<sup>1</sup> Specifically, the M&R recommends Defendants’ Motion be granted and all claims dismissed except the following against Defendant City of Newton: violation of ADEA, wrongful termination based on age discrimination in violation of N.C. Gen. Stat. § 143-422.2, and breach of contract. *See* Doc. No. 12 at 21-22.

## II. LEGAL STANDARD

A district court may designate a magistrate judge to “submit to a judge of the court proposed findings of fact and recommendations for the disposition” of dispositive pretrial matters. 28 U.S.C. § 636(b)(1). Any party may object to the magistrate judge’s proposed findings and recommendations, and the court “shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1). However, “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation” and need not give any explanation for adopting the M&R. *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005); *Camby v. Davis*, 718 F.2d 198, 200 (4th Cir. 1983). Also, the Court does not perform a de novo review where a party makes only “general and conclusory objections that do not direct the court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). After reviewing the record, the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

## III. DISCUSSION

Having carefully reviewed the Magistrate Judge’s M&R, the Parties’ briefs, and applicable legal authority, this Court is satisfied that there is no clear error as to the M&R, to which no objection was made. *Diamond*, 416 F.3d at 315. Accordingly, this Court will adopt the findings and recommendations set forth in the M&R as its own solely for the purpose of deciding the motions before it.

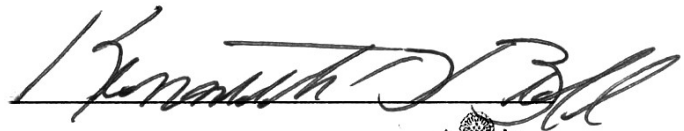
#### IV. ORDER

**NOW THEREFORE IT IS ORDERED THAT:**

1. The Magistrate Judge's M&R (Doc. No. 12) is **ADOPTED**;
2. Defendants' Motion Dismiss (Doc. No. 9) is **GRANTED** in part and **DENIED** in part; and
3. This case shall **proceed toward trial on the merits of the remaining claims** in the absence of a voluntary resolution of the dispute among the parties.

**SO ORDERED ADJUDGED AND DECREED.**

Signed: September 18, 2025

A handwritten signature in black ink, appearing to read "Kenneth D. Bell", written over a horizontal line.

Kenneth D. Bell  
United States District Judge

