IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
EASTERN DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. MICHAEL WAYNE BUTIKOFER, Defendant.	No. 22-CR-1018 CJW-MAR **ORDER REGARDING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION CONCERNING DEFENDANT'S GUILTY PLEA**

I. INTRODUCTION AND BACKGROUND

On October 26, 2023, a seventeen-count Fifth Superseding Indictment was filed against defendant. On December 1, 2023, defendant appeared before United States Magistrate Judge Mark A. Roberts and entered a plea of guilty to counts 1, 4 and 8 of the Fifth Superseding Indictment. On December 5, 2023, Judge Roberts filed a Report and Recommendation ("R&R") in which he recommended defendant's guilty plea be accepted. The parties did not file objections to Judge Roberts' R&R. The Court, therefore, undertakes the necessary review of Judge Roberts' recommendation to accept defendant's plea in this case.

II. ANALYSIS

Under the statute, this Court's standard of review for a magistrate judge's R&R is as follows:

> A judge of 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. A judge of the court 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)(C).

When parties do not object to a magistrate judge's report and recommendation, the Court reviews the report and recommendation for clear error. 28 U.S.C. §

636(b)(1)(A). Similarly, Federal Rule of Criminal Procedure 59(b) provides for review of a magistrate judge's R&R on dispositive motions, where objections are made, as follows:

> The district judge must consider de novo any objection to the magistrate judge's recommendation. The district judge may accept, reject, or modify the recommendation, receive further evidence, or resubmit the matter to the magistrate judge with instructions.

FED. R. CRIM. P. 59(b)(3).[1]

In this case, the parties filed no objections, and it appears to the Court upon review that Judge Roberts' findings and conclusions are not clearly erroneous. Therefore, the Court **ACCEPTS** Judge Roberts' R&R of December 5, 2023, and **ACCEPTS** defendant's plea of guilty in this case to counts 1, 4 and 8 of the Fifth Superseding Indictment.

IT IS SO ORDERED this 20th day of December, 2023.

C.J. Williams
United States District Judge
Northern District of Iowa

[1] *United States v. Cortez-Hernandez*, 673 F. App'x 587, 590-91 (8th Cir. 2016) (per curiam), suggests that a defendant may have the right to de novo review of a magistrate judge's recommendation to accept a plea of guilty even if no objection is filed.