

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

RICKEY SPIVEY,

Plaintiff,

vs.

Case No. 2:10-cv-213-FtM-29SPC

SOCIAL SECURITY ADMINISTRATION,

Defendant.

OPINION AND ORDER

This matter is before the Court on consideration of the Magistrate Judge's Report and Recommendation (Doc. #10), filed November 29, 2010, recommending that the Petition for Writ of Mandamus (Doc. #1) and Affidavit of Indigency (Doc. #7) be denied because the Writ lacks a basis in law or fact. No objections have been filed and the time to do so has expired.

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject or modify the magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); Williams v. Wainwright, 681 F.2d 732 (11th Cir. 1982), cert. denied, 459 U.S. 1112 (1983). In the absence of specific objections, there is no requirement that a district judge review factual findings *de novo*, Garvey v. Vaughn, 993 F.2d 776, 779 n.9 (11th Cir. 1993), and the court may accept, reject or modify, in whole or in part, the findings and recommendations. 28 U.S.C. § 636(b)(1)(C). The district judge reviews legal conclusions *de*

novo, even in the absence of an objection. See Cooper-Houston v. Southern Ry. Co., 37 F.3d 603, 604 (11th Cir. 1994); Castro Bobadilla v. Reno, 826 F. Supp. 1428, 1431-32 (S.D. Fla. 1993), aff'd, 28 F.3d 116 (11th Cir. 1994) (Table).

After conducting an independent examination of the file and upon due consideration of the Report and Recommendation, the Court agrees the Report and Recommendation of the magistrate judge.

Accordingly, it is now


ORDERED:

1. The Report and Recommendation (Doc. #10) is hereby **adopted** to the extent that the Petition for Writ of Mandamus (Doc. #1) will be dismissed without prejudice.

2. Petitioner's Affidavit of Indigency (Doc. #7), construed as a motion to proceed *in forma pauperis*, is **DENIED**.

3. The Clerk shall enter judgment dismissing the Petition for Writ of Mandamus (Doc. #1), terminate all deadlines as moot, and close the file.

DONE AND ORDERED at Fort Myers, Florida, this 21st day of December, 2010.



JOHN E. STEELE
United States District Judge

Copies:
Hon. Sheri Polster Chappell
United States Magistrate Judge

Parties of record