UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

KATHALINA MONACELLI,

Plaintiff,

vs. Case No. 2:08-cv-913-FtM-29DNF

LEE COUNTY EDUCATION ASSOCIATION, LEE COUNTY SCHOOL BOARD, STEVE TEUBER District 4 School Board Member, ISLAND COAST HIGH SCHOOL, G. PETER BOHATCH,

Defendants.

OPINION AND ORDER

This matter is before the Court on consideration of the Magistrate Judge's Report and Recommendation (Doc. #10), filed January 13, 2009, recommending that the Motion to Proceed *In Forma Pauperis*/Affidavit of Indigency (Doc. #2) be denied and the case be dismissed for failure to state a claim. Plaintiff filed Written Objections (Doc. #11) on January 20, 2009.

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). A district judge "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)(C). This requires that the

district judge "give fresh consideration to those issues to which specific objection has been made by a party." Jeffrey S. v. State Bd. of Educ., 896 F.2d 507, 512 (11th Cir. 1990)(quoting H.R. 1609, 94th Cong. § 2 (1976)). Even 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., 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 leave granted to amend the complaint, the Report and Recommendation, and plaintiff's Written Objections, the Court accepts the Report and Recommendation of the magistrate judge and will overrule the objections.

Accordingly, it is now

ORDERED:

1. The Report and Recommendation (Doc. #10) is hereby **adopted** and the findings incorporated herein. The objections thereto are overruled.

2. Plaintiff's Motion to Proceed *In Forma Pauperis*/Affidavit of Indigency (Doc. #2) is **DENIED** and the case is dismissed without prejudice pursuant to 28 U.S.C. § 1915.

3. The Clerk shall enter judgment accordingly, terminate all deadlines and motions as moot, and close the file.

DONE AND ORDERED at Fort Myers, Florida, this 3rd day of February, 2009.

JOHN E. STEELE
United States District Judge

Copies:
Hon. Douglas N. Frazier
United States Magistrate Judge

Plaintiff