

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

KATHALINA MONACELLI,

Plaintiff,

vs.

Case No. 2:08-cv-923-FtM-29SPC

LEE COUNTY EDUCATION ASSOCIATION;
LEE COUNTY SCHOOL BOARD; ROBERT
CHILMONIK District 1 School Board
Member; CAPE CORAL HIGH SCHOOL; ERIC
MCFEE,

Defendants.

OPINION AND ORDER

This matter is before the Court on consideration of the Magistrate Judge's Report and Recommendation (Doc. #10), filed April 21, 2009, recommending that plaintiff be denied *in forma pauperis* status and the case be dismissed for failure to state a claim. Plaintiff filed Written Objections (Doc. #11) on April 27, 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 Amended Complaint (Doc. #8), the Report and Recommendation, and plaintiff's Objections, the Court accepts the Report and Recommendation of the magistrate judge and overrules 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 request to proceed *in forma pauperis* is **DENIED** and the case is dismissed without prejudice for failure to state a claim.

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 11th day of May, 2009.



JOHN E. STEELE
United States District Judge

Copies:
Hon. Sheri Polster Chappell
United States Magistrate Judge

Counsel of Record
Unrepresented parties