

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

LEONARDO ESQUIVEL,

Plaintiff,

vs.

Case No. 2:09-cv-251-FtM-29SPC

NAPLES COMMUNITY HOSPITAL,

Defendant.

OPINION AND ORDER

This matter is before the Court on consideration of the Magistrate Judge's Report and Recommendation (Doc. #19), filed August 24, 2009, recommending that plaintiff's Affidavit of Indigency (Doc. #12), construed as a Motion to proceed *in forma pauperis*, be denied and the case be dismissed. 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 accepts the Report and Recommendation of the magistrate judge. The case will be dismissed without prejudice to the extent that plaintiff is able to state a claim for discrimination.

Accordingly, it is now


ORDERED:

1. The Report and Recommendation (Doc. #19) is hereby **adopted**.

2. Plaintiff's Affidavit of Indigency (Doc. #12), construed as a Motion to proceed *in forma pauperis*, is **DENIED**.

3. The Clerk shall enter judgment dismissing the case without prejudice, terminate all deadlines, and close the case.

DONE AND ORDERED at Fort Myers, Florida, this 13th day of September, 2009.



JOHN E. STEELE
United States District Judge

Copies:
Hon. Sheri Polster Chappell
United States Magistrate Judge

Unrepresented parties