

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

DAVID JAIRO VALLE,

Plaintiff,

v.

Case No: 2:14-cv-626-FtM-29CM

GARYLEE MCDERMED and MIKE  
SCOTT, as Sheriff of Lee  
County, Florida,

Defendants.

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**OPINION AND ORDER**

This matter is before the Court on consideration of the Magistrate Judge's Report and Recommendation (Doc. #44), filed September 2, 2015, recommending that plaintiff's Motion for Leave to File Second Amended Complaint (Doc. #37) be granted in part and denied in part as set forth therein. 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.

Accordingly, it is now

**ORDERED:**

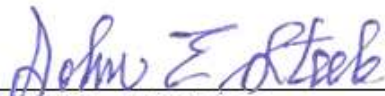
1. The Report and Recommendation (Doc. #44) is hereby **adopted** and the findings incorporated herein.

2. Plaintiff's Motion for Leave to File Second Amended Complaint (Doc. #37) is **GRANTED in part and DENIED in part**.

3. Consistent with this Opinion and Order, and the findings of the Report and Recommendation, plaintiff may file a Second Amended Complaint within **FOURTEEN (14) DAYS** of this Opinion and Order (Doc. #44) to add defendants Mike Tamulionis and Vincent Amoroso (except as to the Fifth Amendment), and to drop defendant

Garylee McDermed. Plaintiff may also replead Count VII to the extent he wishes to assert an implementation claim.

**DONE and ORDERED** at Fort Myers, Florida, this 22nd day of September, 2015.

  
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JOHN E. STEELE  
SENIOR UNITED STATES DISTRICT JUDGE

Copies:  
Hon. Carol Miranda  
United States Magistrate Judge

Counsel of Record  
Unrepresented parties