

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

KENNETH BELLAMY,

Plaintiff,

v.

Case No: 2:15-cv-431-FtM-29CM

FIRST CLASS MANAGEMENT LLC
and TARA P. PALUCK, Judge,

Defendants.

OPINION AND ORDER

This matter is before the Court on consideration of the Magistrate Judge's Report and Recommendation (Doc. #21), filed April 22, 2016, recommending that the motion be granted in part and denied in part. No objections have been filed and the time to do so has expired.¹

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

¹ On April 25, 2016, the same day that a copy of the Report and Recommendation was mailed to plaintiff, the Court was notified of a change of address. The mailing was returned as undeliverable on or about May 5, 2016, and on May 9, 2016, the Report and Recommendation was resent to plaintiff's new address. The deadline to object from this latest date has now expired.

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).

On February 17, 2016, the Court issued an Opinion and Order (Doc. #19) adopting the portion of the previous Report and Recommendation finding that plaintiff was indeed indigent, but otherwise rejecting and recommitting for a frivolity review. In this second Report and Recommendation, the Magistrate Judge recommends that all claims against Judge Paluck be dismissed based on judicial immunity, that claims pursuant to the Fourteenth Amendment against First Class be dismissed as frivolous, that claims under 42 U.S.C. § 1985 and 42 U.S.C. § 2000e-2 be dismissed in their entirety as frivolous, and that plaintiff be permitted to proceed against First Class under 42 U.S.C. § 1983, to the extent that he could allege facts in support. After conducting an independent examination of the file, and upon due consideration of the second Report and Recommendation, the Court accepts the Report and Recommendation of the magistrate judge. Plaintiff will be provided one last opportunity to amend.

Accordingly, it is now

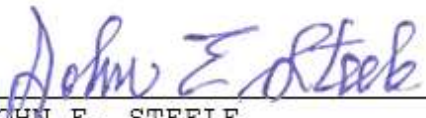
ORDERED:

1. The Report and Recommendation (Doc. #21) is hereby **adopted** and the findings incorporated herein.

2. Plaintiff's Affidavit of Indigency (Doc. #13), construed as a motion to proceed *in forma pauperis*, is **DENIED in part and GRANTED in part** as set forth above.

3. Plaintiff may file a Second Amended Complaint against First Class Management LLC only within **FOURTEEN (14) DAYS** of this Opinion and Order. **If no Second Amended Complaint is filed, the Court will close the case without further notice.**

DONE and ORDERED at Fort Myers, Florida, this 1st day of June, 2016.



JOHN E. STEELE
SENIOR UNITED STATES DISTRICT JUDGE

Copies:
Hon. Carol Mirando
United States Magistrate Judge

Counsel of Record
Unrepresented parties