

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

MIGUEL A CLIME,

Plaintiff,

v.

Case No: 2:15-cv-443-FtM-29CM

GEICO, NISSAN MOTOR
ACCEPTANCE CORPORATION,
CHAYAN BROTHERS & SALVAGE
AUT LLC, NISSAN, GEICO
INSURED RECOVERY COMPANY,
BROOCK BALWING, JULIA
LAMPAZONE, NINA URIBE,
JAICOT RAMOS, SONIA CRUZ,
JIMENEZ ELVING, EDWING
SEPULVEDA, RAMON LOPES,
RAQUEL VAQUEZ, OMayRA
BERBERENA, LUIS TINEO, ELSA
CRUZ RODRIGUEZ, LEADRO
RODRIGUEZ, ADULO CRECO, FNU
ROBERTO, OMAR DALTRY, URIBE
NASARIO, and SATURNINO
PEREZ,

Defendants.

OPINION AND ORDER

This matter is before the Court on consideration of Magistrate Judge Carol Mirando's Report and Recommendation (Doc. #26), filed November 30, 2015, recommending that that Plaintiff's Complaint (Doc. #1) be dismissed. No objections have been filed and the time to do so has expired.¹

¹ Plaintiff filed three documents (Docs. ##27-29) after the entry of the Report and Recommendation. To the extent these documents are intelligible, they do not reference the Report and Recommendation or take issue with any conclusion therein.

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject or modify a 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).

On October 6, 2015, the Magistrate Judge entered an Order (Doc. #14) denying Plaintiff's Motion for Leave to Proceed in Forma Pauperis. In that Order, the Magistrate Judge concluded that Plaintiff's Complaint was "completely unintelligible," thereby making it "impossible to discern what Plaintiff is actually claiming that each Defendant did to cause him injury." (Id. at 5.) Accordingly, the Magistrate Judge ordered Plaintiff to file an amended complaint and an affidavit of indigency (or pay the required filing fee), directed him to the portion of the Court's website designed to assist *pro se* litigants in drafting complaints,

and warned Plaintiff that failure to file an amended complaint would result in dismissal of his case. (Id. at pp. 7-8.)

Plaintiff did not comply with the Magistrate Judge's Order. Plaintiff has not paid the filing fee or filed an affidavit of indigency, nor has he filed an amended complaint. Instead, Plaintiff opted to file a series of motions in which he simply reiterated the disjointed and incomprehensible allegations contained in the Complaint. As a result, the Magistrate Judge concluded that the Complaint must be dismissed because, even construed liberally, it fails to state a claim and Plaintiff has refused to cure these deficiencies as ordered by the Court. See Birdette v. Saxon Mortg, 502 F. App'x. 839, 840 (11th Cir. 2012).

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 Court agrees with the Magistrate Judge that the Complaint fails to state a claim, and Plaintiff's continued failure to abide by the Magistrate Judge's Order renders his Complaint subject to dismissal. Id. Additionally, given the incomprehensible nature of the Complaint and Plaintiff's other filings, the Court concludes that further amendment would be futile.

Accordingly, it is now


ORDERED:

1. The Report and Recommendation (Doc. #26) is hereby **adopted** and the findings incorporated herein.

2. Plaintiff's Complaint (Doc. #1) is **DISMISSED WITHOUT PREJUDICE**.

3. The Clerk shall enter judgment dismissing the case, terminate all pending motions and deadlines, and close the file.

DONE and ORDERED at Fort Myers, Florida, this 18th day of December, 2015.



JOHN E. STEELE
SENIOR UNITED STATES DISTRICT JUDGE

Copies:
Hon. Carol Mirando
United States Magistrate Judge

Counsel of Record
Unrepresented parties