

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

ROBERT HEIM,

Plaintiff,

v.

Case No: 2:15-cv-677-FtM-99MRM

COMMISSIONER OF SOCIAL
SECURITY,

Defendant.

OPINION AND ORDER

This matter is before the Court on consideration of the Magistrate Judge's Report and Recommendation (Doc. #8), filed December 21, 2015, recommending that this action be dismissed for failure to prosecute. 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 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 30, 2015, Plaintiff, who is proceeding *pro se*, commenced this case and moved for leave to proceed *in forma pauperis*. (Docs. ##1-2.) On November 3, 2015, the Magistrate Judge denied Plaintiff's without prejudice and instructed him to refile a more complete Affidavit of Indigency within fourteen days. (Doc. #3.) Plaintiff did not make any additional filings in response to that Order. On December 8, 2015, the Magistrate Judge ordered Plaintiff to file a more complete Affidavit of Indigency, and further ordered Plaintiff to show cause why this case should not be dismissed for failure to prosecute. (Doc. #7.) Plaintiff did not respond that Order either, and the time to do so has expired. As a result, the Magistrate Judge recommends that this case be dismissed pursuant to Local Rule 3.10(a), which provides that "[w]henver it appears that any case is not being diligently prosecuted the Court may, on motion of any party or on its own motion, enter an order to show cause why the case should not be dismissed, and if no satisfactory cause is shown, the case may be dismissed by the Court for want of prosecution." M.D. Fla. R. 3.10(a). 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.

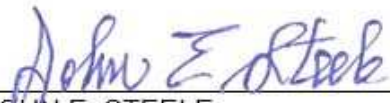
Accordingly, it is now

ORDERED:

1. The Report and Recommendation (Doc. #8) is hereby **adopted** and the findings **incorporated** herein.

2. This action is **DISMISSED** without prejudice for failure to prosecute. The Clerk shall enter judgment accordingly, terminate all previously scheduled deadlines and pending motions, and close the file.

DONE and ORDERED at Fort Myers, Florida, this 11th day of January, 2016.



JOHN E. STEELE
SENIOR UNITED STATES DISTRICT JUDGE

Copies:
Hon. Mac R. McCoy
United States Magistrate Judge

Counsel of Record
Unrepresented parties