

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

DAVID SCOTT HASTINGS,

Plaintiff,

v.

Case No: 2:19-cv-32-FtM-29MRM

KATHLEEN A. SMITH, Public
Defender, AMIR CYRUS,
Assistant Public Defender,
and MELISSA SHERMAN,
Assistant Public Defender,

Defendants.

OPINION AND ORDER

This matter is before the Court on consideration of the Magistrate Judge's Report and Recommendation (Doc. #14), filed July 19, 2019, recommending that the Application to Proceed In District Court Without Prepaying Fees or Costs (Doc. #2) be denied and the case be dismissed for failure to prosecute. 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

¹ The Clerk mailed a copy of the Report and Recommendation to plaintiff on July 22, 2019, and the Court allowed additional days for mailing pursuant to Fed. R. Civ. P. 6(d).

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). 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).

The Magistrate Judge initially directed plaintiff to file an Amended Complaint on February 19, 2019. (Doc. #6.) When no amended complaint was timely filed, the Magistrate Judge issued an Order to Show Cause (Doc. #7). The Magistrate Judge granted four extensions of time to comply and to file an amended complaint. (Docs. ## 9, 11, 12, 13.) Upon expiration of the last deadline, the Report and Recommendation was issued for failure to prosecute. 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

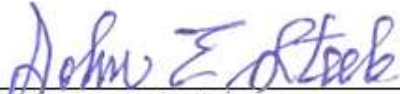
ORDERED:

1. The Report and Recommendation (Doc. #14) is hereby **adopted** and the findings incorporated herein.

2. Plaintiff's Application to Proceed In District Court Without Prepaying Fees or Costs (Doc. #2) is **DENIED**.

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

DONE and ORDERED at Fort Myers, Florida, this 16th day of August, 2019.



JOHN E. STEELE
SENIOR UNITED STATES DISTRICT JUDGE

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

Counsel of Record
Unrepresented parties