

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

EDDIE ALEXANDER BANKS,

Plaintiff,

v.

Case No: 2:19-cv-755-FtM-29NPM

MIKE POMPEO, LAUREL M. LEE,
WILLIAM BARR, ASHLEY MOODY,
CARMINE MARCENO, GENE
SPAULDING, and JOSIAH
SHIBLY,

Defendants.

OPINION AND ORDER

This matter is before the Court on consideration of the Magistrate Judge's Report and Recommendation (Doc. #11), filed December 11, 2019, recommending that plaintiff's Affidavit of Indigency (Doc. #2) be denied, and the action be dismissed. Plaintiff filed a document in response (Doc. #12) on December 20, 2019, which is construed as his objections.

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); United States v. Powell, 628 F.3d 1254, 1256 (11th Cir. 2010). A district judge "shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. §

636(b)(1). See also United States v. Farias-Gonzalez, 556 F.3d 1181, 1184 n.1 (11th Cir. 2009). This requires that the district judge "give fresh consideration to those issues to which specific objection has been made by a party." Jeffrey S. v. State Bd. of Educ. of Ga., 896 F.2d 507, 512 (11th Cir. 1990)(quoting H.R. 1609, 94th Cong., § 2 (1976)). 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).

Plaintiff initiated the case with a "Notice of Motion and Motion to Intervene Admiralty or Maritime Within the Meaning of Rule 9(h) with an Injunction" under the title of "Treaty". (Doc. #1.) Defendants are public officials of either the United States or the State of Florida. The Magistrate Judge found the document, construed as a Complaint, to be "wholly insubstantial, unintelligible, and frivolous", and therefore found that allowing any amendment would be futile. Indeed the construed objections do not directly address why a claim for relief has been stated, or that any viable claim could be stated, but rather states that the Magistrate Judge has "no contract with regard to [his] business other than [sic] your oath of office and fiduciary duty. . . . You are my guest." (Doc. #12, p. 1.) After a careful and complete review of the findings and recommendations, as well as the record

in this case, the Court agrees with the Report and Recommendation of the Magistrate Judge and will overrule the construed objections.

Accordingly, it is now

ORDERED:


1. The Report and Recommendation (Doc. #11) is hereby **adopted** and the findings incorporated herein.

2. Plaintiff's construed objections (Doc. #12) are **overruled**.

3. Plaintiff's Affidavit of Indigency (Doc. #2) is **denied**.

3. The case is dismissed without prejudice. The Clerk shall enter judgment accordingly, terminate all pending motions, and close the file.

DONE and ORDERED at Fort Myers, Florida, this 30th day of December, 2019.



JOHN E. STEELE
SENIOR UNITED STATES DISTRICT JUDGE

Copies:
All Parties of Record