

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

CAMILLE DEMPSEY,

Plaintiff,

v.

Case No: 2:21-cv-142-JLB-MRM

SHC SERVICES, INC. and HAVEN
BEHAVIORAL SERVICES OF
ALBUQUERQUE, LLC,

Defendants.

ORDER

On August 16, 2021, the Magistrate Judge filed a Report and Recommendation (“R&R”) in this case recommending that Plaintiff’s Complaint (Doc. 1) be dismissed without prejudice for failure to comply with the Court’s orders and failure to prosecute. (Doc. 10.) No objection has been filed and the time do so has expired. A district judge may accept, reject, or modify the magistrate judge’s R&R. 28 U.S.C. § 636(b)(1). In the absence of objections, a district judge is not required to review the factual findings in the report de novo, but legal conclusions are reviewed de novo even without an objection. Id.; Cooper-Houston v. S. Ry. Co., 37 F.3d 603, 604 (11th Cir. 1994); Garvey v. Vaughn, 993 F.2d 776, 779 n.9 (11th Cir. 1993).

After an independent review of the record, and noting that Plaintiff has not objected, the Court agrees with the R&R. Here, however, a dismissal without prejudice would effectively amount to a dismissal with prejudice because the statute

of limitations may have lapsed as to some or all of Plaintiff's claims. Even so, Plaintiff knew that the statute of limitations had lapsed. (Doc. 4 at 1-2.) Thus, the Court agrees with the R&R's well-reasoned finding that Plaintiff's noncompliance was willful and no lesser sanction than dismissal is appropriate. The Court will nevertheless dismiss this action without prejudice, allowing Plaintiff to refile any claims not barred by the statute of limitations.

Accordingly, it is **ORDERED**:

1. The Report and Recommendation (Doc. 10) is **ADOPTED** and made part of this Order for all purposes.
2. This case is **DISMISSED WITHOUT PREJUDICE**.
3. The Clerk of Court is **DIRECTED** to terminate any pending deadlines and close the file.

ORDERED at Fort Myers, Florida, on September 7, 2021.



JOHN L. BADALAMENTI
UNITED STATES DISTRICT JUDGE