

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

CLINTON LEE POWERS,

Plaintiff,

v.

Case No. 3:12-cv-393-J-99TJC-TEM

NAIMAN, etc.; et al.,

Defendants.

ORDER

This cause is before the Court upon Defendant Neel's Motion to Dismiss Complaint (Doc. #11). This matter was considered by the United States Magistrate Judge pursuant to 28 U.S.C. § 636. The Magistrate Judge filed a Report and Recommendation (Doc. #22) on November 5, 2012, recommending the granting of Defendant Neel's Motion to Dismiss Complaint and the dismissal of Defendant Neel. The Magistrate Judge informed Plaintiff that, within fourteen (14) days after being served with a copy of the Report and Recommendation, he may serve and file specific written objections to the proposed findings and recommendations. Furthermore,

Plaintiff was advised that a judge of the court would make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection was made.

Plaintiff filed Written Objections to Report and Recommendation (Doc. #24). The Written Objections to Report and Recommendation will be overruled.

Upon consideration of the Magistrate Judge's Report and Recommendation and upon this Court's independent examination, it is

ORDERED:

1. That Petitioner's Written Objections to Report and Recommendation (Doc. #24) are **overruled**.

2. That the Magistrate Judge's Report and Recommendation (Doc. #22), filed herein on November 5, 2012, is hereby **adopted and affirmed and made a part hereof, except for pages 9-11 of the Report and Recommendation concerning the RLUIPA issue, which the Court does not adopt.**

3. That **Defendant Neel** is **DISMISSED without prejudice** from this action.

4. Defendants' December 13, 2012, Motion for Leave to File Corrected Motion to Dismiss Pursuant to 42 U.S.C. § 1997e(a) (Doc. #27) is **GRANTED**, and Defendants shall file their Corrected Motion to Dismiss within **TWENTY-ONE (21) DAYS** from the date of this order.

5. The **Clerk** shall terminate Defendants Naiman and Adams' November 2, 2012, Motion to Dismiss Pursuant to 42 U.S.C. §

1997e(a) (Doc. #20).

6. Plaintiff's January 3, 2013, Motion for Permission to Appeal In Forma Pauperis (Doc. #30) is **DENIED AS MOOT**. See the Eleventh Circuit Opinion of January 25, 2013 (Doc. #31).

DONE AND ORDERED at Jacksonville, Florida, this 11th day of February, 2013.


TIMOTHY J. CORRIGAN
United States District Judge

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c:

The Honorable Thomas E. Morris
United States Magistrate Judge

Clinton Lee Powers
Ass't A.G. (Stubbs)