

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

JOHN F. PULLINS,

Plaintiff,

vs.

Case No. 3:12-cv-407-J-34MCR

DEAN HAGGINS and R & J TOWING AND
RECOVERY, INC.,

Defendants.

_____ /

ORDER

THIS CAUSE is before the Court on Magistrate Judge Monte C. Richardson's Report and Recommendation (Doc. No. 6; Report) entered on May 7, 2012. In the Report, Judge Richardson recommends that the Court deny Plaintiff, John Pullins' (Pullins), Affidavit of Indigency (Doc. No. 2; Motion), which Judge Richardson construed as a Motion to Proceed In Forma Pauperis, and dismiss Pullins' Complaint (Doc. No. 1; Complaint). Judge Richardson based his recommendation of the denial of the Motion on a finding that the Court lacks subject matter jurisdiction over Pullins' claims. Report at 5. In reaching his conclusion, Judge Richardson found that the Rooker-Feldman doctrine¹ applies, precluding the Court from reviewing the state court judgment that Pullins challenges. Report at 3. Thereafter, on May 18, 2012, Pullins filed a Motion to Set Aside Order and Motion for Leave to Submit Amended Complaint (Doc. No. 7; Objection), which this Court construes as Pullins' objection to the Report.

¹ Rooker v. Fidelity Trust Co., 263 U.S. 413 (1923) and District of Columbia Court of Appeals v. Feldman, 460 U.S. 462 (1983). See, e.g., Roe v. Alabama, 43 F.3d 574 (11th Cir. 1995)(recognizing the appropriate application of the Rooker-Feldman doctrine in the Eleventh Circuit).

The Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b). If no specific objections to findings of facts are filed, the district court is not required to conduct a de novo review of those findings. See Garvey v. Vaughn, 993 F.2d 776, 779 n.9 (11th Cir. 1993); see also 28 U.S.C. § 636(b)(1). However, the district court must review legal conclusions de novo. See Cooper-Houston v. S. Ry. Co., 37 F.3d 603, 604 (11th Cir. 1994) (per curiam); United States v. Rice, No. 2:07-mc-8-FtM-29SPC, 2007 WL 1428615, at * 1 (M.D. Fla. May 14, 2007).

In response to the Report, Pullins has filed his Objection, in which he seeks leave to file an amended complaint. See Objection. Such an amendment would be governed by Rule 15, Federal Rule of Civil Procedure (Rule(s)). While Rule 15(a)(2) provides that leave to amend should be freely given, the Rule is, in fact, tempered by considerations where leave may be denied, including the futility of the amendment. Foman v. Davis, 371 U.S. 178, 182 (1962); see also Sibley v. Lando, 437 F.3d 1067, 1073-74 (11th Cir. 2005)(per curiam); Bryant v. Dupree, 252 F.3d 1161, 1163 (11th Cir. 2001)(per curiam)(recognizing that the futility of an amendment provides grounds for a district court to deny leave to amend). Here, Pullins’ Objection requests leave to amend to assert Constitutional and Civil Rights violations; however, Pullins fails to assert any basis for an amendment that falls outside the scope of the Rooker-Feldman doctrine. See Objection. Indeed, Pullins has failed to even suggest how he would amend his Complaint to state a proper claim. Id. Thus, the Court finds that justice does not outweigh the futility of this request.

Upon independent review of the record and for the reasons stated in the Magistrate Judge's Report, the Court will overrule the Objection, and accept and adopt the legal and factual conclusions recommended in the Report by Judge Richardson.

Accordingly, it is hereby **ORDERED**:

1. Plaintiff's Motion to Set Aside Order and Motion for Leave to Submit Amended Complaint (Doc. No. 7), which this Court construes as Plaintiff's objection, is **OVERRULED**.

2. Magistrate Judge Monte C. Richardson's Report and Recommendation (Doc. No. 6) is **ADOPTED**.

3. This case is **DISMISSED**, and the Clerk of the Court is directed to close the file.

DONE AND ORDERED at Jacksonville, Florida, this 3rd day of July, 2012.


MARCIA MORALES HOWARD
United States District Judge

i17
Copies to:
Counsel of Record