

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION

RANDALL LAMONT ROLLE,

Plaintiff,

vs.

Case No. 5:15-cv-285-Oc-34PRL

JOHN MACELUCH, et al.,

Defendants.

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ORDER

THIS CAUSE is before the Court on the Report and Recommendation (Doc. No. 4; Report), entered by the Honorable Philip R. Lammens, United States Magistrate Judge, on July 10, 2015. In the Report, Judge Lammens recommends that Plaintiff's construed motion to proceed in forma pauperis (Doc. No. 2) be denied and that Plaintiff's Complaint (Doc. No. 1) be dismissed. See Report at 5. On July 27, 2015, Plaintiff filed objections to the Report. See Plaintiff's Objections to the Report and Recommendation (Doc. No. 5; Objections).

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. Southern Ry. Co., 37 F.3d 603, 604 (11th

Cir. 1994); United States v. Rice, No. 2:07-mc-8-FtM-29SPC, 2007 WL 1428615, at * 1 (M.D. Fla. May 14, 2007).

Upon independent review of the file and for the reasons stated in Judge Lammens' Report, the Court will overrule the Objections, and accept and adopt the legal and factual conclusions recommended by the Magistrate Judge.¹

Accordingly, it is hereby

ORDERED:

1. Plaintiff's Objections to the Report and Recommendation (Doc. No. 5) are

OVERRULED.

2. The Magistrate Judge's Report and Recommendation (Doc. No. 4) is **ADOPTED** as the opinion of this Court.

3. Plaintiff's construed motion to proceed in forma pauperis (Doc. No. 2) is **DENIED.**

4. Plaintiff's Complaint (Doc. No. 1) is **DISMISSED** as frivolous.

¹ Shortly after filing the Objections, Plaintiff filed a Motion for Leave to Amend (Doc. No. 6) and an Amended Complaint (Doc. No. 7; Proposed Amended Complaint). In an abundance of caution, before determining whether to accept the recommendation of the Magistrate Judge, the Court has considered whether the Proposed Amended Complaint would cure the Plaintiff's pleading deficiencies. Having determined that it does not, the Court concludes that this action is due to be dismissed. While the Court is of the view that ordinarily it is best to give a pro se Plaintiff an opportunity to file an amended complaint before dismissing an action, under the circumstances of this case, the Court agrees that dismissal is appropriate.

5. The Clerk of the Court is **DIRECTED** to terminate all deadlines and motions as moot and close the case.

DONE AND ORDERED in Chambers, this 8th day of October, 2015.


MARCIA MORALES HOWARD
United States District Judge

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Copies to:

The Honorable Philip R. Lammens
United States Magistrate Judge

Counsel of Record

Pro Se Party