

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

KENNETH W. WOOD,

Plaintiff,

v.

Case No: 6:13-cv-1813-Orl-36TBS

JOHN MCHUGH,

Defendant.

ORDER

This cause comes before the Court on the Report and Recommendation of Magistrate Judge Thomas B. Smith, filed on December 5, 2013. Dkt. 3. In the Report and Recommendation, Magistrate Judge Baker recommends that the Court postpone ruling on Plaintiff Kenneth W. Wood's ("Wood") Motion for Leave to Proceed *In Forma Pauperis* ("IFP Motion") (Dkt. 2), dismiss the Complaint (Dkt. 1), and grant Wood leave to file an amended complaint. *Id.* Wood has not objected to the Report and Recommendation, but instead has filed an Amended Complaint (Dkt. 4).

After careful consideration of the Report and Recommendation of the Magistrate Judge, in conjunction with an independent examination of the court file, the Court is of the opinion that the Magistrate Judge's Report and Recommendation should be adopted, confirmed, and approved in all respects.

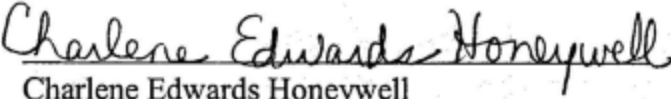
The Court agrees with the Magistrate Judge that, in accordance with 28 U.S.C. § 1915(e)(2), the Complaint should be dismissed because it fails to state a claim. The Court will allow the Magistrate Judge to evaluate the Amended Complaint Wood filed on December 13, 2013

to determine if it states a claim upon which relief can be granted and, in doing so, the Magistrate Judge shall issue an order or Report and Recommendation regarding the IFP Motion.

Accordingly, it is hereby **ORDERED** and **ADJUDGED**:

1. The Report and Recommendation of the Magistrate Judge (Dkt. 3) is adopted, confirmed, and approved in all respects and is made a part of this Order for all purposes, including appellate review.
2. Plaintiff's Complaint (Dkt. 1) is hereby **DISMISSED** without prejudice.
3. The Court **GRANTS** Plaintiff leave to file an Amended Complaint, which Plaintiff has already filed at Dkt. 4.
4. Plaintiff's Motion for Leave to Proceed *In Forma Pauperis* (Dkt. 2) is **POSTPONED** and is still **REFERRED** to the Magistrate Judge (*see* Dkt. 2) for an order or Report and Recommendation that the Magistrate Judge will issue after consideration of the Amended Complaint (Dkt. 4).

DONE and **ORDERED** in Orlando, Florida on December 24, 2013.


Charlene Edwards Honeywell
United States District Judge

Copies furnished to:

Counsel of Record
Unrepresented Parties
United States Magistrate Judge Thomas B. Smith