

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

RODOLFO ANTONIO LOPEZ, JR.,

Plaintiff,

v.

Case No. 6:17-cv-1107-Orl-37TBS

UNITED STATES OF AMERICA,

Defendant.

ORDER

On June 16, 2017, *pro se* Plaintiff Rodolfo Antonio Lopez, Jr. filed a Complaint against the United States of America. (Doc. 1.) The Complaint states that Plaintiff does not seek any damages or relief but, rather, “seeks understanding of a long[-]term illegal and secretive conspiracy” under which he “has been forced under the control of the United States Government on all levels.” (*Id.* at. 4.) As compensation, Plaintiff requests review of: (1) the “forced control in the hostile take over [sic] of the Kingdom of Hawaii in 1898”; and (2) “the monetary exchange between [the] United States of America and the Russian Empire for the purchase of Alaska in 1867.” (*Id.* at 4-5.)

Alongside the Complaint, Plaintiff also filed a motion to proceed *in forma pauperis* (Doc. 2 (“**IFP Motion**”)), which the Court referred to U.S. Magistrate Judge Thomas

B. Smith for a Report and Recommendation (“**R&R**”). Before entering an R&R, Magistrate Judge Smith issued an Order finding that: (1) the Complaint was frivolous as a matter of law; (2) Plaintiff’s admission that he was not seeking any damages or relief meant that there was no case or controversy for the Court to adjudicate; and (3) Plaintiff failed to plead a plausible or cognizable cause of action (“**Initial Findings**”). (Doc. 3, p. 4.) Nonetheless, the magistrate graciously granted Plaintiff twenty-one days to amend his Complaint and deferred ruling on the IFP Motion until such time. (*Id.* at 1, 5.) The Order warned that if Plaintiff failed to amend his papers within this timeframe, Magistrate Judge Smith would recommend that the case be dismissed based on the Initial Findings.

Plaintiff never amended his Complaint. Hence, on July 12, 2017, Magistrate Judge Smith issued an R&R recommending that the Court deny the IFP Motion and dismiss the Complaint without leave to amend. (Doc. 7.)

Plaintiff’s objections to the R&R were due on or before July 31, 2017. However, on this date, the R&R was returned to the Court as undeliverable. Obviously then, no objections were filed. But while Plaintiff may not have seen the R&R, he is to blame for his failure to receive it, as he failed to provide the Court with an updated address as required by the District’s Administrative Procedures and the certification signed by Plaintiff in the Complaint. *See* Administrative Procedures for Electronic Filing, Part II.D (M.D. Fla. June 5, 2015) (“All attorneys and *pro se* litigants must maintain current information in CM/ECF including name, email address, mailing address, telephone number, fax number, and where applicable, firm name or affiliation. . . . *Pro se* litigants who are not authorized to file electronically must submit a ‘Notice of Change of Address’

in paper format.”); *see also* (Doc. 1, p. 5) (“I agree to provide the Clerk’s Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk’s Office may result in the dismissal of my case.”); *cf. FHL, Inc. v. Walker*, No. 2:13-cv-555-MHT, 2016 WL 868225, at *2 (M.D. Ala. Mar. 7, 2016) (granting a motion for the entry of default judgment where the plaintiff failed to provide the court or opposing counsel with an updated address for service).

In any event, the magistrate’s Order containing his Initial Findings and directing Plaintiff to amend the Complaint was not returned to the Court. As such, the Court concludes that it was received and ignored.¹ So, consistent with Magistrate Judge Smith’s initial warning, and based on the obvious frivolity of the Complaint, the Court will adopt the R&R in its entirety.

Accordingly, it is **ORDERED AND ADJUDGED** as follows:

1. U.S. Magistrate Judge Thomas B. Smith’s Report and Recommendation dated July 12, 2017 (Doc. 7) is **ADOPTED, CONFIRMED**, and made a part of this Order.
2. Plaintiff’s Application to Proceed in District Court without Prepaying Fees or Costs (Doc. 2) is **DENIED**.
3. Plaintiff’s Complaint (Doc. 1) is **DISMISSED WITH PREJUDICE**.

¹ Plaintiff also failed to timely respond to the Court’s Related Case Order (Doc. 4) and Interested Persons Order (Doc. 5). Neither of these Orders were returned as undeliverable.

4. The Clerk is **DIRECTED** to close the file and terminate any pending motions.

DONE AND ORDERED in Chambers in Orlando, Florida, on August 8, 2017.




ROY B. DALTON JR.
United States District Judge

Copies to:
Counsel of Record