

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
ORLANDO DIVISION

JOSE PEDRO AZEVEDO,

Plaintiff,

v.

Case No. 6:17-cv-1304-Orl-37GJK

FLORIDA DEPARTMENT OF  
REVENUE CHILD SUPPORT  
CUSTOMER SERVICES,

Defendant.

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**ORDER**

Although difficult to parse, *pro se* Plaintiff Jose Pedro Azevedo seemingly requests that the Court disestablish paternity and remove his name from a birth certificate as the legal father. (*See* Doc. 1, ¶ 38.) As grounds, Plaintiff claims that Defendant obtained his signatures on acknowledgments of paternity through fraud and duress. (*See id.* ¶ 2.) Simultaneously with the Complaint, Plaintiff filed a motion to proceed *in forma pauperis*. (Doc. 2 (“**IFP Motion**”).) On referral, U.S. Magistrate Judge Gregory J. Kelly, recommends that the Court dismiss the Complaint without prejudice, deny the IFP Motion, and grant Plaintiff leave to file an amended pleading. (Doc. 12 (“**R&R**”).)

In his R&R, Magistrate Judge Kelly identifies a number of problems. To begin, the Complaint does not specifically allege the basis for the Court’s jurisdiction. (*Id.* at 4.) Diversity jurisdiction appears to be foreclosed because both Plaintiff and Defendant are citizens of Florida. (*Id.*) And, although Plaintiff mentions violations of his First

Amendment and due process rights, which would invoke the Court's federal question jurisdiction, he provides no specific allegations for how Defendant violated those rights. (*Id.*) Additionally, the R&R notes that the Court lacks jurisdiction because Plaintiff's challenge to the establishment of his paternity and child support obligations is generally one not within the purview of federal courts. (*See id.* at 5-6.)

The parties did not object to the R&R, and the time for doing so has now passed. As such, the Court has examined the R&R only for clear error. *See Wiand v. Wells Fargo Bank, N.A.*, No. 8:12-cv-557-T-27EAJ, 2016 WL 355490, at \*1 (M.D. Fla. Jan. 28, 2016); *see also Marcort v. Prem, Inc.*, 208 F. App'x 781, 784 (11th Cir. 2006). Finding no clear error, the Court concludes that the R&R is due to be adopted in its entirety.

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

1. U.S. Magistrate Judge Gregory J. Kelly's Report and Recommendation (Doc. 12) is **ADOPTED, CONFIRMED**, and made a part of this Order.
2. Plaintiff's Motion for Leave to Proceed In Forma Pauperis (Doc. 2) is **DENIED**.
3. Plaintiff's Complaint (Doc. 1) is **DISMISSED WITHOUT PREJUDICE**.
4. On or before Tuesday, **November 21, 2017**, Plaintiff may file an amended pleading that sets forth: (a) the basis on which the Court has subject matter jurisdiction; (b) what rights under the Constitution, laws, or treaties of the United States or otherwise have allegedly been violated by Defendant; (c) a short and plain statement of facts as to each claim and the Defendant's involvement in the violation alleged in each claim; (d) how Plaintiff has

been damaged or injured by Defendant's actions or omissions; and (e) a clear statement of the relief sought. Failure to timely file will result in closure of this action without further notice.

5. At the time Plaintiff files his amended pleading, he shall also file a renewed motion to proceed *in forma pauperis* using an approved form or pay the full filing fee.

**DONE AND ORDERED** in Chambers in Orlando, Florida, on November 7, 2017.



  
ROY B. DALTON JR.  
United States District Judge

Copies to:  
*Pro se* party  
Counsel of Record