

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION

MARTIN JOSEPH STRICKER,

Plaintiff,

vs.

Case No. 8:09-CV-1875-T-27TGW

STATE OF FLORIDA, et al.,

Defendants.

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ORDER

**BEFORE THE COURT** is the Magistrate Judge's Report and Recommendation (Dkt. 102). The Magistrate Judge recommends that Defendants' motions to dismiss (Dkts. 54, 55, 58, 63, 79), and Ganey's alternative motion for summary judgment (Dkt. 54) be granted. Plaintiff, proceeding *pro se*, filed a self-styled "Affidavit of Truth in Opposition to Magistrate Wilson's Biased Recommendations." (Dkt. 103). After careful consideration of the Report and Recommendation in conjunction with an independent examination of the file, the Court is of the opinion that the Report and Recommendation should be adopted, confirmed, and approved in all respects.

Accordingly, it is **ORDERED** that

- (1) Plaintiff's objections (Dkt. 103) are **OVERRULED**.
- (2) The Report and Recommendation (Dkt. 102) is adopted, confirmed, and approved in all respects and is made part of this order for all purposes, including appellate review.
- (3) Defendants' motions to dismiss (Dkts. 54, 55, 58, 63, 79) are **GRANTED**.
- (4) Defendant Ganey is entitled to qualified immunity and therefore his alternative motion for summary judgment (Dkt. 54) is **GRANTED**.
- (5) Counts I, II, IV, V, and VI of the first amended complaint are **DISMISSED WITH PREJUDICE**.

(6) Count III of the first amended complaint is **DISMISSED WITHOUT PREJUDICE**.

(7) Plaintiff is granted leave to file a second amended complaint related to Count III within twenty-one (21) days. Any claims in the second amended complaint which are not consistent with this order will be dismissed *sua sponte* without further notice. Failure to file a second amended complaint within twenty-one (21) days will result in the dismissal of this action for lack of prosecution, **without further notice**.

**DONE AND ORDERED** this 1<sup>st</sup> day of July, 2010.

  
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**JAMES D. WHITTEMORE**  
**United States District Judge**

Copies to:  
Counsel of record  
Unrepresented parties