

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

CHARLES ERIC HARRIS,

Plaintiff,

v.

Case No: 8:09-CV-2546-T-30AEP

MICHAEL J. ASTRUE,
Commissioner of the United States
Social Security Administration,

Defendant.

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REPORT AND RECOMMENDATION

THIS MATTER is before the Court on the *pro se* Plaintiff's Complaint (Dkt. No. 1), and Affidavit of Indigency (Dkt. No. 2), which the Court construes as a Motion for Leave to Proceed *in forma pauperis*.

The Court previously took Plaintiff's Motion under advisement after finding that Plaintiff's Complaint (Dkt. No. 1) did not properly set forth a cause of action. (*See* Dkt. No. 4.) The Court further allowed Plaintiff an opportunity to file an amended complaint by February 5, 2010, and recommended dismissal of the action should Plaintiff fail to do so. (*Id.*) Plaintiff has failed to file an amended complaint by the stated deadline. For the reasons articulated in this Court's prior Order (Dkt. No. 4), the undersigned recommends that the

Plaintiff's Motion for Leave to Proceed *in forma pauperis* (Dkt. No. 2) be **DENIED** and the Plaintiff's Complaint (Dkt. No. 1) be **DISMISSED**.

IT IS SO REPORTED at Tampa, Florida on this 8th day of February, 2010.



ANTHONY E. PORCELLI
United States Magistrate Judge

NOTICE TO PARTIES

Failure to file and serve written objections to the proposed findings and recommendations contained in this report within fourteen (14) days from the date it is served on the parties shall bar an aggrieved party from a *de novo* determination by the District Court of issues covered in the report, and shall bar the party from attacking on appeal factual findings in the report accepted or adopted on appeal by the District Court except upon grounds of plain error or manifest injustice. 28 U.S.C. § 636(b)(1)(C); Local Rule 6.02; *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982) (*en banc*).

Copies furnished to:

Hon. James S. Moody, Jr.

Plaintiff, *pro se*