

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

JOHN FABING and MARY FABING,

Plaintiffs,

v.

Case No. 8:12-cv-2624-T-33MAP

LAKELAND REGIONAL MEDICAL
CENTER, ET AL.,

Defendants.

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ORDER

This matter is before the Court on consideration of United States Magistrate Judge Mark A. Pizzo's Report and Recommendation (Doc. # 17), filed on April 12, 2013, recommending that Plaintiffs' Motions to Proceed on Appeal *in forma pauperis* (Doc. # 14, 15), be denied.

Although given a chance to do so, Plaintiffs did not file an objection to the report and recommendation, and the time for Plaintiffs to do so has now expired.

Analysis

In the report and recommendation, the magistrate judge finds that Plaintiffs' appeal "is not taken in good faith." (Doc. # 17 at 2). The magistrate judge bases his findings on the fact that "Plaintiffs have failed to identify any colorable basis for appeal or for concluding that the Court's order entering judgment in favor of Defendants was in error."

Id. Thus, the magistrate judge correctly recommends that the Motions to Proceed *in forma pauperis* on appeal be denied.

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject or modify the magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); Williams v. Wainwright, 681 F.2d 732 (11th Cir. 1982), cert. denied, 459 U.S. 1112 (1983). In the absence of specific objections, there is no requirement that a district judge review factual findings *de novo*, Garvey v. Vaughn, 993 F.2d 776, 779 n.9 (11th Cir. 1993), and the court may accept, reject or modify, in whole or in part, the findings and recommendations. 28 U.S.C. § 636(b)(1)(C). The district judge reviews legal conclusions *de novo*, even in the absence of an objection. See Cooper-Houston v. S. Ry. Co., 37 F.3d 603, 604 (11th Cir. 1994); Castro Bobadilla v. Reno, 826 F. Supp. 1428, 1431-32 (S.D. Fla. 1993), aff'd, 28 F.3d 116 (11th Cir. 1994) (Table).

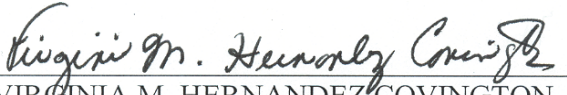
After conducting a careful and complete review of the findings, conclusions and recommendations, and giving *de novo* review to matters of law, the Court accepts the factual findings and legal conclusions of the magistrate judge and the recommendation of the magistrate judge.

Accordingly, it is now

ORDERED, ADJUDGED, and DECREED:

- (1) The Report and Recommendation (Doc. # 17) is **ACCEPTED** and **ADOPTED**.
- (2) Plaintiffs' Motions for leave to proceed *in forma pauperis* on appeal (Doc. # 14, 15) are **DENIED**.
- (3) The Court certifies that the appeal is not taken in good faith and directs the Clerk to notify the Court of Appeals of this ruling in accordance with Rule 24(a)(4) of the Federal Rules of Appellate Procedure.

DONE and **ORDERED** in Chambers in Tampa, Florida, this 30th day of April, 2013.


VIRGINIA M. HERNANDEZ COVINGTON
UNITED STATES DISTRICT JUDGE

Copies:

All Counsel and Parties of Record