

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

HERBERT MARTINEZ,

Plaintiff,

v.

Case No: 8:14-cv-215-T-30MAP

KURT HEINTZMANN, STEVEN
TONER, ANTHONY SCAGLIONE,
LISA HERNDON, FRANK MARTINEZ,
VICKIE MARTINEZ, MICHAEL
BECKWITH, BRYAN FAULKINGHAM,
GISELLE DEPIERO, WILLIAM
POWERS, AL NIENHUIS and BRAD
KING,

Defendants.

ORDER

THIS CAUSE came on for consideration upon the Report and Recommendation submitted by Magistrate Judge Mark A. Pizzo (Dkt. #10) and the Objections and Motion for Relief from Judgment or Order Per Federal Rule 60 and Motion to Take Leave of Court to Amend Claim Removing Immune Judicial Defendants as Contained Herein (Dkt. #11) filed in response thereto.

After careful consideration of the Report and Recommendation of the Magistrate Judge, the Objections, Plaintiff's motions, and in conjunction with an independent examination of the file, the Court concludes that the Magistrate Judge's Report and Recommendation should be adopted, confirmed, and approved in all respects. *Pro se* Plaintiff's motions for relief from judgment and for leave to amend are comprised of

incoherent and disjointed allegations not sufficient to illustrate that an amended complaint would be meritorious. Any amendment would also be futile because Plaintiff still does not allege an actionable claim.¹

ACCORDINGLY, it is therefore, **ORDERED AND ADJUDGED** that:

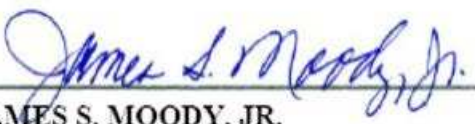
1. The Report and Recommendation (Dkt. #10) of the Magistrate Judge is adopted, confirmed, and approved in all respects and is made a part of this order for all purposes, including appellate review.

2. Plaintiff's Motion for Relief from Judgment or Order Per Federal Rule 60 and Motion to Take Leave of Court to Amend Claim Removing Immune Judicial Defendants as Contained Herein (Dkt. #11) are **DENIED**.

3. Plaintiff's Complaint is dismissed without prejudice.

4. The Clerk is directed to close this case and terminate any pending motions as moot.

DONE and **ORDERED** in Tampa, Florida, this 10th day of June, 2014.



JAMES S. MOODY, JR.
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel/Parties of Record

¹ Plaintiff has already filed an amended complaint (Dkt. #5) that contained confusing allegations and lacked clarity. The allegations contained in Plaintiff's instant motions are largely repetitive of those contained in Plaintiff's original and amended complaint.