

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

JEANETTE MCDONALD
STEWART,
Plaintiff,

vs.

CASE NO. 8:15-CIV-1487-T-17-TGW

INTERNAL REVENUE SERVICE,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION

This cause is before the Court on the report and recommendation (R&R) issued by Magistrate Judge Thoms G. Wilson on August 28, 2015 (Doc. 11). The magistrate judge recommended that the Court dismiss the complaint for failure to state a cause of action with leave to amend.

Pursuant to Rule 6.02, Rules of the United States District Court for the Middle District of Florida, the parties had fourteen (14) days after service to file written objections to the proposed findings and recommendations, or be barred from attacking the factual findings on appeal. No timely objections to the report and recommendation were filed.

STANDARD OF REVIEW

When a party makes a timely and specific objection to a finding of fact in the report and recommendation, the district court should make a de novo review of the record with respect to that factual issue. 28 U.S.C. § 636(b)(1); **U.S. v. Raddatz**, 447 U.S. 667 (1980);


Jeffrey S. v. State Board of Education of State of Georgia, 896 f.2d 507 (11th Cir. 1990).

However, when no timely and specific objections are filed, case law indicates that the court should review the findings using a clearly erroneous standard. **Gropp v. United Airlines, Inc.**, 817 F.Supp. 1558, 1562 (M.D. Fla. 1993).

The Court has reviewed the report and recommendation and made an independent review of the record. Upon due consideration, the Court concurs with the report and recommendation. Accordingly, it is

ORDERED that the report and recommendation (Doc. 11) be **adopted and incorporated by** reference; the cause of action is **dismissed for failure to state a cause of action**, and the Plaintiff has up to and including October 23, 2015 to file an amended complaint that will correct the deficiencies in the initial complaint.

DONE and ORDERED in Chambers, in Tampa, Florida, this 21st day of September, 2015.



ELIZABETH A. KOVACHEVICH
UNITED STATES DISTRICT JUDGE

Copies to:
All parties and counsel of record
Assigned Magistrate Judge