

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION**

JEREMY S. FOGELMAN,

Plaintiff,

v.

Case No. 3:16cv183/MCR/CJK

**OKALOOSA COUNTY PRE-TRIAL
SERVICES,**

Defendant.

ORDER

This cause comes on for consideration of the Magistrate Judge's Report and Recommendation dated September 15, 2016. ECF No. 13. Plaintiff has been furnished a copy of the Report and Recommendation and has been afforded an opportunity to file objections pursuant to Title 28, United States Code, Section 636(b)(1). No objections were filed. The Court has determined that the Report and Recommendation should be adopted in part and rejected in part.

Generally, "a district court must grant a plaintiff at least one opportunity to amend their [sic] claims before dismissing them if it appears a more carefully drafted complaint might state a claim upon which relief can be granted even if the plaintiff never seeks leave to amend." *Silva v. Bieluch*, 351 F.3d 1045, 1048–49 (11th Cir.

2003) (internal quotations omitted). Plaintiff was previously given an opportunity to “clarify” his allegations, ECF No. 7 at 1, and he made a good faith attempt to plead with specificity as directed. While Plaintiff did not plead the claim with sufficient specificity to satisfy Rule 8 and the *Twombly/Iqbal* principles as discussed in the Report and Recommendation, based on this record and in deference to Plaintiff’s *pro se* status, the Court cannot “exclude the possibility” that the Plaintiff may be able to state a cognizable claim with a more carefully drafted complaint. *Walker v. Mobile Police Dep’t*, No. CV 17-0117-WS-M, 2017 WL 1398654, at *4 (S.D. Ala. Apr. 18, 2017). Thus, while the Court concurs with Judge Khan’s recommendation that Plaintiff’s complaint fails to state a claim upon which relief can be granted, in light of the Plaintiff’s *pro se* status, the Court finds that one additional opportunity to amend should be allowed.

Accordingly, it is **ORDERED**:

1. The Magistrate Judge’s Report and Recommendation, ECF No. 13, is adopted in part and incorporated by reference in this Order.
2. The Plaintiff is ordered to file a Second Amended Complaint that corrects the deficiencies described in this Order within 30 days

or the case will be closed and judgment will be entered
dismissing this action with prejudice.

DONE AND ORDERED this 5th day of May, 2017.

M. Casey Rodgers

M. CASEY RODGERS

CHIEF UNITED STATES DISTRICT JUDGE