

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF FLORIDA  
TALLAHASSEE DIVISION

MARCHELLO JACKSON,

Plaintiff,

v.

CASE NO. 4:11cv216-SPM/WCS

EDWIN BUSS, et al.,

Defendants.

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**ORDER AFFIRMING MAGISTRATE JUDGE'S RULING**

Pending before the Court is Plaintiff Marchello Jackson's November 16, 2011 letter, which has been treated as an appeal, pursuant to Federal Rule of Civil Procedure 72(a), of the magistrate judge's October 27, 2011 ruling.

Plaintiff complains that the ruling "impinges on [his] fundamental rights to . . . 'private contract', 'to redress for grievances'; without 'a trial by jury.'" Doc. 15. Plaintiff also complains that "the Court's offer of full payment of \$350.xx for simply reading a complaint violates international law." Doc. 15.

The magistrate judge's ruling does not violate Plaintiff's rights or the law. As explained in the ruling, Plaintiff may pursue his case if he files an amended complaint. If Plaintiff chooses not to do so, his case will be dismissed in accordance with his request for voluntary dismissal. The magistrate judge

advised Plaintiff that he is responsible for payment of the filing fee even if he voluntarily dismisses his case. This is correct since 28 U.S.C. § 1915(b)(1) requires a prisoner bringing a civil action to pay the full amount of the filing fee. The prisoner is responsible for the fee the moment he brings a civil action to the court. Williams v. Roberts, 116 F.3d 1126, 1128 (5th Cir. 1997). There is no right to a refund if the case is dismissed, even on jurisdictional grounds. Id.

The magistrate judge's ruling is supported by the record and is neither clearly erroneous nor contrary to law. Accordingly, it is

ORDERED AND ADJUDGED:

1. The October 27, 2011 ruling of the magistrate judge (doc. 15) is affirmed.
2. Plaintiff shall have up to and including January 9, 2012 to file an amended complaint. If nothing is received from Plaintiff, then his case will be dismissed based on his previously filed notice of voluntary dismissal. Either way, Plaintiff is responsible for paying the balance of the filing fee.
3. This case is referred to the magistrate judge for further proceedings.

DONE AND ORDERED this 29th day of December, 2011.

*s/ Stephan P. Mickle*  
Stephan P. Mickle  
Senior United States District Judge