

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

ANTHONY LEON SCHILLER,

Plaintiff,

v.

CASE NO.: 4:11-cv-405-SPM

N.E. MERCER, et al.,

Defendants.

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ORDER

THIS CAUSE comes before the Court upon the Plaintiff's Motion to Proceed In Forma Pauperis (doc. 18). This case was previously dismissed for Plaintiff's failure to comply with a court order and failing to prosecute this case. Initially, Plaintiff was directed to either pay the filing fee or submit an *in forma pauperis* motion (doc. 4). Plaintiff failed to respond to that Order, therefore the magistrate judge recommended that the case be dismissed (doc. 5). Plaintiff filed an objection to the Report and Recommendation and indicated that he had requested his 6 month account statements in order to file an *in forma pauperis* motion, but the prison officials would not provide them (doc. 6). Accordingly, this Court referred the case back to the magistrate judge for consideration of Plaintiff's issues regarding his account statements (doc. 8). Plaintiff was then given the opportunity to either submit an *in forma pauperis* motion supported by

the inmate bank account statements, pay the filing fee, or demonstrate to the Court that the prison officials refused to provide him with a printout of his inmate bank account (doc. 9). Again, Plaintiff failed to comply, and the magistrate judge recommended dismissal of this action (doc. 11). This Court adopted the Report and Recommendation and dismissed this case for failure to comply with court orders and to prosecute this case (doc. 13).

Subsequently, Plaintiff filed an *in forma pauperis* motion attaching his inmate bank account statements (doc. 18). Because the Court has already issued an Order adopting the Report and Recommendation and judgment has been entered accordingly, that Order and judgment (docs. 13 and 14) will be vacated and this case will be referred to the magistrate judge for consideration of the *in forma pauperis* motion. Accordingly, it is hereby

ORDERED and ADJUDGED:

1. The Order adopting the Second Report and Recommendation (doc. 13) and the judgment (doc. 14) are vacated.
2. This case is referred to the magistrate judge for consideration of Plaintiff's *in forma pauperis* motion.

DONE AND ORDERED this 13th day of April, 2012.

S/ Stephan P. Mickle
Stephan P. Mickle
Senior United States District Judge