

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

ALAN B. CURTIS and
JEANINE R. SAXTON,

Plaintiffs,

v.

CASE NO. 4:13cv99-RH/CAS

BERNARD F. DALEY, JR.,
and THE DALEY LAW OFFICE, P.A.,

Defendants.

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ORDER OF DISMISSAL

This case is before the court on the magistrate judge's report and recommendation, ECF No. 4. No objections have been filed.

The report and recommendation concludes that the case should be dismissed for lack of subject-matter jurisdiction. The complaint asserts only state-law claims. Jurisdiction thus would exist only if both plaintiffs were citizens of different states than both defendants. Both defendants are citizens of Florida. The plaintiff Alan R. Curtis is incarcerated in Florida. A person can be a citizen of another state even if incarcerated in Florida, but Mr. Curtis has not asserted that *he* is a citizen of

another state. The ability to file objections to the report and recommendation gave Mr. Curtis a chance to assert a basis for jurisdiction, but he did not.

Accordingly,

IT IS ORDERED:

The report and recommendation is ACCEPTED. The clerk must enter judgment stating, “This case is DISMISSED without prejudice for lack of subject-matter jurisdiction.” The clerk must close the file.

SO ORDERED on April 16, 2013.

s/Robert L. Hinkle
United States District Judge