

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

DOCTOR ELGINE WILSON FURLOW,

Plaintiff,

v.

CASE NO. 4:13cv481-RH/CAS

LINDA ALLBERRY et al.,

Defendants.

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**ORDER OF DISMISSAL**

This case is before the court on the magistrate judge's report and recommendation, ECF No. 2. No objections have been filed. The report and recommendation correctly concludes that the complaint should be dismissed because the plaintiff did not pay the filing fee or move for leave to proceed in forma pauperis.

The report and recommendation also correctly concludes that even if not subject to dismissal on this basis, the complaint would properly be dismissed as frivolous. A plaintiff may be entitled to notice and an opportunity to be heard prior to a dismissal on the court's own motion on this ground. *See, e.g., Am. United Life*

*Ins. Co. v. Martinez*, 480 F.3d 1043, 1069 (11th Cir. 2007); *Danow v. Borack*, 197 F. App'x 853, 856, 2006 WL 2671928, at \*3 (11th Cir. 2006) (unpublished); *see also Jefferson Fourteenth Associates v. Wometco de Puerto Rico, Inc.*, 695 F.2d 524 (11th Cir. 1983). Here the report and recommendation gave the plaintiff adequate notice, and he had an opportunity to respond by filing objections.

Upon consideration,

IT IS ORDERED:

The report and recommendation is ACCEPTED and adopted as the court's opinion. The clerk must enter judgment stating, "This case is DISMISSED without prejudice." The clerk must close the file.

SO ORDERED on November 3, 2013.

s/Robert L. Hinkle  
United States District Judge