

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

DOCTOR ELGINE WILSON FURLOW,

Plaintiff,

v.

CASE NO. 4:13cv488-RH/CAS

ORLANDO, FLORIDA'S SOCIAL
SECURITY ADM., et al.,

Defendants.

_____ /

ORDER OF DISMISSAL

This case is before the court on the magistrate judge's report and recommendation, ECF No. 3. No objections have been filed. The recommendation is for dismissal of the complaint on the court's own motion based on both (1) the plaintiff's failure to pay the filing fee or move for leave to proceed in forma pauperis and (2) the complaint's failure to state a claim on which relief can be granted.

A plaintiff may be entitled to notice and an opportunity to be heard prior to a dismissal on the court's own motion for failure to state a claim. *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Borack, 197 F. App'x 853, 856, 2006 WL 2671928, at *3 (11th Cir. 2006) (unpublished); *see also Jefferson Fourteenth Associates v. Wometco de Puerto Rico, Inc.*, 695 F.2d 524 (11th Cir. 1983).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.

The report and recommendation correctly concludes that the complaint is deficient. This order affords the plaintiff one further opportunity to amend. If the plaintiff chooses to file an amended complaint, it must include a “short and plain statement of the claim showing that [the plaintiff] is entitled to relief.” Fed. R. Civ. P. 8(a)(2). And the plaintiff must pay the filing fee or move for leave to proceed in forma pauperis; if he fails to do so, the case will be dismissed.

For these reasons and those set out in the report and recommendation,

IT IS ORDERED:

The complaint is dismissed. The plaintiff is granted leave to file an amended complaint by April 16, 2014. If the plaintiff fails to do so—or fails by that date to pay the filing fee or move for leave to proceed in forma pauperis—a judgment will be entered dismissing the case.

SO ORDERED on March 25, 2014.

s/Robert L. Hinkle
United States District Judge