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

ISRAEL ROSADO-PEREZ,

Plaintiff,

v.

4:15cv216-WS/CAS

DR. L. CARREO-RUIZ,
DR. CARLOS COLON,
AMY KIRKLAND,
DARLENE WARD, and
SHELBY MIXON,

Defendants.

ORDER ADOPTING THE MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION

Before the court is the magistrate judge's report and recommendation (doc. 75) docketed August 7, 2017. The magistrate judge recommends (1) that Plaintiff's claim against Defendant Carreo-Ruiz be dismissed for failure to prosecute; and (2) that the motion for summary judgment filed by Defendants Colon, Kirkland, Ward, and Mixon be granted. Plaintiff has filed objections (doc. 81) to the report and recommendation. He has also filed a motion (doc. 82) for leave to file a

supplemental affidavit/declaration in opposition to summary judgment as well as the supplemental declaration (doc. 83) that he wants the court to now consider.

On November 8, 2016, after the magistrate judge advised (doc. 66) Plaintiff at length about his obligation to respond to Defendants' motion for summary judgment, Plaintiff filed a declaration (doc. 70) in opposition to the motion, a brief (doc. 71) in opposition to the motion, and a statement (doc. 72) of disputed factual issues. Now, after obtaining an unfavorable recommendation from the magistrate judge, Plaintiff—while admitting that his defense to the summary judgment motion was “inadequate”—seeks permission to file additional evidence in a belated attempt to sidestep the magistrate judge’s recommendation and resist Defendants’ motion for summary judgment. Plaintiff suggests that the untimeliness of his proposed submission should be excused because he lacks the ability to properly litigate the action and because he received “poor assistance . . . from fellow inmates no more versed in the law than he is.” Doc. 82, p. 3. However, Plaintiff’s ignorance of the law and the inadequacy of services provided by inmate law clerks do not constitute grounds that would excuse Plaintiff’s failure to provide the reviewing magistrate judge with an “adequate” response to Defendants’ motion for summary judgment. The court thus finds that Plaintiff’s request (doc. 82) for leave to file a supplemental affidavit is due to be denied.

Even if the court were to grant Plaintiff's request to file a supplemental declaration, the court finds nothing in that declaration (doc. 83)—or in Plaintiff's objections (doc. 81)—that would lead this court to reject the magistrate judge's report and recommendation. Like the magistrate judge, this court finds that Defendant Carreo-Ruiz should be dismissed for failure to prosecute and that the remaining Defendants are entitled to summary judgment.

Accordingly, it is ORDERED:

1. The magistrate judge's report and recommendation (doc. 75) is ADOPTED and incorporated into this order by reference.
2. Plaintiff's request (doc. 82) for leave to file a supplemental affidavit/declaration in opposition to Defendants' motion for summary judgment is DENIED.
3. Defendants' motion for summary judgment (doc. 65) is GRANTED.
4. Plaintiff's claims against Defendant Carreo-Ruiz are DISMISSED without prejudice for failure to prosecute.
5. Plaintiffs' claims against Defendants Colon, Kirkland, Ward, and Mixon are DISMISSED with prejudice.
6. The clerk shall enter judgment stating: "All claims against all defendants are DISMISSED."

DONE AND ORDERED this 27th day of September, 2017.

s/ William Stafford
WILLIAM STAFFORD
SENIOR UNITED STATES DISTRICT JUDGE