

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

RODNEY RODRIGUEZ SHIPMAN,

Plaintiff,

v.

Case No. 5:15cv133-MW/CJK

UNITED STATES OF AMERICA,

et al.,

Defendants.

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ORDER ACCEPTING REPORT AND RECOMMENDATION

This Court has considered, without hearing, the Magistrate Judge's Report and Recommendation, ECF No. 179, and has also reviewed *de novo* the Government's objections to the report and recommendation, ECF No. 180. Although reasonable jurists might disagree about the propriety of accepting an out-of-time summary-judgment motion, the Magistrate Judge was completely within his rights to recommend that the Government's motion, ECF 148, was due to be denied. Although the Government claims its motion was based on facts it could not have discovered earlier, the Magistrate Judge was spot on in noting that the Government could have moved to depose Dr. Marks (or otherwise discover information related to his affidavit) much earlier in the case. Moreover, the Government did not object to the Magistrate Judge's earlier report and recommendation finding that the Government had waived, for purposes of summary judgment, any challenge to Dr. Mask's opinion testimony or qualification as an expert.

Finally, the Government's objection regarding referral of the case to the Magistrate Judge for pre-trial proceedings is **DENIED**. This Court will handle its own pre-trial proceedings.

Accordingly,

IT IS ORDERED:

The report and recommendation is **accepted and adopted**, over the Government's objections, as this Court's opinion. The Government's Motion to Strike Plaintiff's Expert and for Summary Judgment, ECF No. 148, is **DENIED**. The Government's Motion for Limited Stay, ECF No. 149, is **DENIED**. This matter is referred to the Magistrate Judge for further proceedings.

SO ORDERED on December 7, 2018.

s/Mark E. Walker
Chief United States District Judge