

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

ROBERTO CEPEDA,

Plaintiff,

v.

CASE NO. 5:17cv266-RH/GRJ

STATE OF FLORIDA,

Defendant.

_____ /

ORDER OF DISMISSAL

This case is before the court on the magistrate judge's report and recommendation ECF No. 5. No objections have been filed.

The order of October 27, 2017 gave the plaintiff an opportunity to file an amended complaint. The plaintiff has not done so, and the deadline has long passed. The report and recommendation correctly concludes that the case should be dismissed on this basis.

The original complaint—the only complaint the plaintiff has filed—names only a single defendant: the State of Florida. The claims against the State are apparently barred by the Eleventh Amendment. *See Seminole Tribe of Fla. v. Florida*, 517 U.S. 44 (1996) (holding that a state sued in its own name has

Eleventh Amendment immunity, regardless of the relief sought, unless the immunity has been waived or validly abrogated by Congress). The plaintiff has not asserted a claim under any statute valid abrogating Eleventh Amendment immunity. In any event, the plaintiff's failure to file an amended complaint as ordered, standing alone, is sufficient for dismissal.

For these reasons,

IT IS ORDERED:

The report and recommendation is accepted. The clerk must enter judgment stating, "This case is dismissed without prejudice." The clerk must close the file.

SO ORDERED on April 10, 2018.

s/Robert L. Hinkle
United States District Judge