

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 08-20631-CIV-LENARD/WHITE

HAROLD BROWN,

Plaintiff,

vs.

JORGE PASTRANA, et al.,

Defendants.

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**ORDER ADOPTING REPORT AND RECOMMENDATION OF MAGISTRATE
JUDGE (D.E. 37) AND DENYING WITHOUT PREJUDICE DEFENDANT
WARREN'S MOTION TO DISMISS (CONSTRUED AS A MOTION FOR
SUMMARY JUDGMENT) (D.E. 27)**

THIS CAUSE is before the Court on the Report of Magistrate Judge Patrick A. White (“Report,” D.E. 37), issued on May 1, 2009, recommending that Defendant Warren’s Motion to Dismiss (“Motion,” D.E. 27), construed as a motion for summary judgment and filed on November 26, 2008, be denied without prejudice. As of the date of this Order, Defendant Warren has not filed any objections to the Report. Failure to file timely objections shall bar the parties from attacking on appeal the factual findings contained in the report. See Resolution Trust Corp. v. Hallmark Builders, Inc., 996 F.2d 1144, 1149 (11th Cir. 1993). Based on a review the of the Magistrate Judge’s Report, the Motion, the related pleadings, and the record, it is hereby **ORDERED AND ADJUDGED** that:

1. The Report and Recommendation of Magistrate Judge Patrick A. White (D.E. 37), issued on May 1, 2009, is **ADOPTED**.

2. Consistent with the Report and this Order, Defendant Warren's Motion to Dismiss (D.E. 27), construed as a motion for summary judgment, is **DENIED WITHOUT PREJUDICE**.
3. Defendant is instructed that upon renewal of the Motion, he need not actually re-file the document with supporting exhibits but rather may simply file a Notice renewing the prior Motion.

DONE AND ORDERED in Chambers at Miami, Florida, this 2nd day of June, 2009.


JOAN A. LENARD
UNITED STATES DISTRICT JUDGE