

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CASE NO. 09-21942-CIV-GOLD/WHITE

CHARLES EDWARD DAVIS, II,

Plaintiff,

vs.

DADE COUNTY JAIL CHS HEALTH
SERVICES, et al.,

Defendants.

**ORDER ADOPTING AND AFFIRMING MAGISTRATE'S REPORT AND
RECOMMENDATION [DE 12] IN PART; DISMISSING COMPLAINT [DE 1] WITHOUT
PREJUDICE; DENYING MOTION FOR TEMPORARY RESTRAINING
ORDER [DE 10] WITHOUT PREJUDICE; GRANTING LEAVE TO AMEND**

THIS CAUSE is before the Court upon the Report and Recommendations of Magistrate Judge Patrick A. White ("the Report") **[DE 12]** recommending that Plaintiff's Complaint **[DE 1]** be dismissed without prejudice for lack of prosecution and that Plaintiff's Motion for a Temporary Restraining Order or Preliminary Injunction **[DE 10]** be denied without prejudice on the grounds that it is wholly unrelated to the facts alleged in the complaint (and the Defendants sued therein), was filed in the wrong venue, and is likely moot given that Plaintiff has been moved from the location of the threatened injury. No objections were timely filed. Having reviewed the Report, the record, the applicable case law, and being otherwise duly advised, it is hereby

ORDERED AND ADJUDGED that:


1. The Magistrate's Report **[DE 12]** is ADOPTED AND AFFIRMED.
2. Plaintiff's Complaint **[DE 1]** is DISMISSED WITHOUT PREJUDICE. Plaintiff shall have **until and including April 1, 2010** to file an Amended Complaint in

accordance with Magistrate Judge White's November 19, 2009 Order [DE 9]. Failure to timely amend in accordance with [DE 9] will result in the closure of this case.

3. Plaintiff's Motion for a Temporary Restraining Order or Preliminary Injunction [DE 10] is DENIED WITHOUT PREJUDICE to Plaintiff's right to re-assert the motion in an action involving the parties Plaintiff seeks to restrain or enjoin (i.e., the Marion County parties).
4. If Plaintiff seeks to restrain or enjoin the Defendants to this action (i.e., the Miami-Dade Defendants), he must first file an Amended Complaint in accordance with Magistrate Judge White's November 19, 2009 Order, see [DE 9], on or before **April 1, 2010**.
5. Plaintiff shall then have **until and including April 9, 2010** to renew his request for injunctive relief based on the contents of the Amended Complaint.

DONE AND ORDERED in Chambers in Miami, Florida this 3 day of ~~January~~ ^{Feb},

2010.



THE HONORABLE ALAN S. GOLD
UNITED STATES DISTRICT JUDGE

cc: Magistrate Judge Patrick White
Counsel of record

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