

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 09-23733-CIV-LENARD/WHITE

JAMES R. CATON,

Plaintiff,

vs.

WARDEN PASTRADA, et al.,

Defendants.

/

ORDER ADOPTING REPORT AND DISMISSING AMENDED COMPLAINT

THIS CAUSE is before the Court on the Report and Recommendation (“Report,” D.E. 9) issued by the Magistrate Judge on February 2, 2010. On December 16, 2009, Plaintiff, acting pro se, filed the Complaint in this action. Plaintiff subsequently filed an amended complaint (“Amended Complaint,” D.E. 8) on January 6, 2010, pursuant to the Magistrate Judge’s order. In his Amended Complaint, Plaintiff alleges the Warden and officers at the Federal Correctional Center in Miami, Florida, denied him medical aid and pressured him into pleading guilty in a state court criminal case, in violation of 42 U.S.C. § 1983. Specifically, Plaintiff alleges that one officer incited inmates to attack him with glass and dried bleach and caused him to get into a fight. Furthermore, Plaintiff alleges the Defendants knew he needed medical help but plotted to make him sick to cover for Officer Roche’s hate crimes.

The Report recommends Plaintiff’s Amended Complaint be dismissed pursuant to 28

U.S.C. § 1915(e)(2)(ii) for failure to state a claim upon which relief may be granted. On February 10, 2010, Plaintiff filed what the Court construes to be objections to the Report (“Objections,” D.E. 10). Plaintiff’s Objections simply repeat several of the allegations contained in his Amended Complaint. Also, on February 10, 2010, Plaintiff filed a motion to appoint counsel (D.E. 11), requesting the Court appoint counsel for him due to his psychiatric condition.

Pursuant to 28 U.S.C. § 1915(e)(2), “[n]otwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that -- (A) the allegation of poverty is untrue; or (B) the action or appeal -- (i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief.” 28 U.S.C. § 1915(e)(2)(B). Accordingly, having conducted a de novo review of the Report, Objections, and the record, and conducting an analysis pursuant to 28 U.S.C. § 1915(e)(2)(B), the Court finds that Plaintiff’s Amended Complaint fails to state a claim on which relief may be granted. It is therefore **ORDERED AND ADJUDGED** that:

1. Plaintiff’s Amended Complaint (D.E. 8), filed on January 6, 2010, is **DISMISSED**, for failure to state a claim pursuant to 28 U.S.C. § 1915(e)(2)(B);
2. Plaintiff’s Motion to Appoint Counsel (D.E. 11), filed on February 10, 2010, is **DENIED AS MOOT**;

3. This case is now **CLOSED**.

DONE AND ORDERED in Chambers in Miami, Florida, this 26th day of February, 2010.


JOAN A. LENARD
UNITED STATES DISTRICT JUDGE

