

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

Case No. 24-cv-14371-KMM

STEPHEN PATRICK YOUNG and
JACK YOUNG,

Plaintiffs,

v.

THE CITY OF SEBRING,

Defendant.

ORDER

THIS CAUSE came before the Court upon the Report and Recommendation of the Honorable Ryon M. McCabe, United States Magistrate Judge. (“R&R”) (ECF No. 15). The matter was referred to Magistrate Judge McCabe, pursuant to 28 U.S.C. § 636 and the Magistrate Judge Rules of the Local Rules of the Southern District of Florida, to take all necessary and proper action as required by law regarding all pre-trial, non-dispositive matters and for a Report and Recommendation on any dispositive matters. (ECF No. 4). Magistrate Judge McCabe issued an R&R, recommending that Defendant’s Motion to Dismiss (“Motion”) (ECF No. 5) be GRANTED and Plaintiffs’ Complaint (ECF No. 1) be DISMISSED without prejudice. Neither Defendant nor Plaintiff objected to the R&R. (ECF No. 16). The matter is now ripe for review. As set forth below, the Court ADOPTS the R&R.

The Court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). The Court “must determine *de novo* any part of the magistrate judge’s disposition that has been properly objected to.” Fed. R. Civ. P. 72(b)(3). A *de novo* review is therefore required if a party files “a proper, specific objection” to a factual finding contained in the report. *Macort v. Prem*,

Inc., 208 F. App'x 781, 784 (11th Cir. 2006). “It is critical that the objection be sufficiently specific and not a general objection to the report” to warrant *de novo* review. *Id.*

Yet when a party has failed to object or has not properly objected to the magistrate judge's findings, “the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *See Keaton v. United States*, No. 14-21230-CIV, 2015 WL 12780912, at *1 (S.D. Fla. May 4, 2015); *see also Lopez v. Berryhill*, No. 17-CV-24263, 2019 WL 2254704, at *2 (S.D. Fla. Feb. 26, 2019) (stating that a district judge “evaluate[s] portions of the R & R not objected to under a clearly erroneous standard of review” (citing *Davis v. Apfel*, 93 F. Supp. 2d 1313, 1317 (M.D. Fla. 2000))).

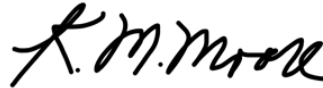
This is a *pro se* civil rights case against Defendant, the City of Sebring. *See* (ECF No. 1). Defendant seeks dismissal of all claims pursuant to Federal Rule of Civil Procedure 12(b)(6). *See generally* (ECF No. 5). Plaintiffs failed to respond to the Motion and Magistrate Judge McCabe *sua sponte* extended the deadline and cautioned that failure to respond may result in the Motion being granted by default pursuant to Local Rule 7.1(c). *See* (ECF No. 7); *see also Jones v. Bank of Am., N.A.*, 564 F. App'x 432, 434 (11th Cir. 2014) (“[A] party's failure to respond to any portion or claim in a motion indicates such portion, claim or defense is unopposed.”). Now, Magistrate Judge McCabe recommends that given Plaintiffs did not timely respond to the Motion within the time allotted, the Motion should be granted by default, the Complaint should be dismissed and Plaintiffs should be given an opportunity to re-plead their claims through an Amended Complaint. *See R&R at 2.*

The Court received no objections to the aforementioned findings in the R&R. Upon a review of the record, the Court finds no clear error with Magistrate Judge McCabe's findings that the case should be dismissed without prejudice.

I. CONCLUSION

Accordingly, UPON CONSIDERATION of the R&R, the Motion, the pertinent portions of the record, and being otherwise fully advised in the premises, it is hereby ORDERED AND ADJUDGED that the R&R (ECF No. 15) is ADOPTED. Defendant's Motion to Dismiss is GRANTED. Plaintiffs' Complaint (ECF No. 1) is DISMISSED WITHOUT PREJUDICE. Plaintiffs may file an Amended Complaint no later than February 18, 2025.

DONE AND ORDERED in Chambers at Miami, Florida, this 27th day of January, 2025.



K. MICHAEL MOORE
UNITED STATES DISTRICT JUDGE

c: All counsel of record