

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Tony Lendell Reed,

File No. 24-CV-00539 (JMB/DTS)

Plaintiff,

v.

ORDER

United States Attorney Office District of
Minnesota,

Defendant.

Tony Lendell Reed, Coleman, FL, self-represented.

This matter is before the Court on the Report and Recommendation (R&R) of United States Magistrate Judge David T. Schultz dated August 7, 2024. (Doc. No. 14.) The R&R recommends dismissing this action under Federal Rule of Civil Procedure 12(h)(3) for lack of subject-matter jurisdiction and, in turn, denying Plaintiff Tony Lendell Reed's Application to Proceed in District Court Without Prepaying Fees and Costs (IFP Application) (Doc. No. 4) as moot. (*See* Doc. No. 14.) Reed filed an Objection to the R&R (Doc. No. 15) to which Defendant United States Attorney's Office for the District of Minnesota (USAO) did not respond. For the following reasons, the Court overrules Reed's Objection and adopts the R&R.

The Court reviews the challenged portions of an R&R under a de novo standard of review. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3); D. Minn. L.R. 72.2(b)(3). However, the Court need only review for clear error any aspect of an R&R to which no

specific objection is made. *See Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996). Because Reed is self-represented, his Objection is entitled to liberal construction. *Erickson v. Pardus*, 551 U.S. 89, 94 (2007).

The Court closely reviewed Reed's filing to discern the nature of his objection to the R&R. Reed generally takes issue with the Magistrate Judge's determination that the action should be dismissed for lack of subject-matter jurisdiction and states that USAO "damaged, destroyed, or lost" documents that he had requested. (Doc. No. 15 at 1–2.) However, instead of explaining to the Court the ways in which he has met his burden of showing that the USAO has improperly withheld agency records from him, Reed argues that he "can't show anything because all of his legal paper work has been damaged, destroyed or lost" (*Id.* at 2.) The Court concludes that the contents of any information that is being allegedly withheld by the USAO has no bearing on Reed's ability to establish the Court's subject-matter jurisdiction over this action, which he brought pursuant to the Freedom of Information Act (FOIA), 5 U.S.C. § 552. Having conducted a de novo review, the Court agrees with the Magistrate Judge's conclusion that Reed has not carried his burden of establishing the Court's subject-matter jurisdiction over this action.

Based on the foregoing, and on all the files, records and proceedings herein, IT IS HEREBY ORDERED THAT:

1. Plaintiff Tony Lendell Reed's Objection to the R&R (Doc. No. 15) is OVERRULED.
2. The R&R (Doc. No. 14) is ADOPTED.
 - a. This action is DISMISSED WITHOUT PREJUDICE under Federal Rule of Civil Procedure 12(h)(3) for lack of subject-matter jurisdiction.

- b. Reed's IFP Application (Doc. No. 4) is DENIED as moot.
3. Reed is ORDERED to pay the unpaid balance of this action's statutory filing fee—\$295.91—as required by 28 U.S.C. § 1915(b).
4. The Clerk of Court is ORDERED to send notice of Reed's payment obligation to the authorities where Reed is incarcerated.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: October 24, 2024

/s/ Jeffrey M. Bryan
Judge Jeffrey M. Bryan
United States District Court