

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
NORTHERN DIVISION
No. 2:18-CV-16-BO

JOHN F. ROOKS,)
)
Plaintiff,)
)
v.)
)
UNITED STATES POSTAL SERVICE,)
)
Defendant.)

ORDER

This cause comes before the Court on entry of a memorandum and recommendation by United States Magistrate Judge Kimberly A. Swank pursuant to 28 U.S.C. § 636(b). No objections to the memorandum and recommendation have been filed, and the matter is ripe for review.

BACKGROUND

Plaintiff, proceeding *pro se*, initiated this action by filing a motion to proceed *in forma pauperis*. See 28 U.S.C. § 1915(a). Magistrate Judge Swank reviewed the motion and found that, based on ambiguities in the financial affidavit, it was not possible to determine whether plaintiff qualified for pauper status. Accordingly, Magistrate Judge Swank recommends that the motion to proceed *in forma pauperis* be denied without prejudice and that plaintiff be given a deadline by which to either pay the requisite filing fee or file a properly completed *in forma pauperis* application.

DISCUSSION

A district court is required to review de novo those portions of an M&R to which a party timely files specific objections or where there is plain error. 28 U.S.C. § 636(b)(1); *Thomas v.*


Arn, 474 U.S. 140, 149-50 (1985). “[I]n the absence of a timely filed objection, a district court need not conduct de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (internal quotation and citation omitted).

Plaintiff has not objected to the M&R and the time for doing so has passed. The Court has reviewed the M&R and is satisfied that there is no clear error on the face of the record. Accordingly, the memorandum and recommendation is ADOPTED as amended below.

CONCLUSION

The memorandum and recommendation of Magistrate Judge Swank is ADOPTED. Plaintiff’s motion to proceed *in forma pauperis* [DE 1] is DENIED WITHOUT PREJUDICE. Plaintiff shall either remit the full filing fee or file a completed application to proceed *in forma pauperis* not later than October 19, 2018. Failure to comply with this order will result in this action being closed.

SO ORDERED, this 26 day of September, 2018.


TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE