

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5 : 13 - CV - 261 - BO

MARK ELLIOTT FREEMAN,)
Plaintiff,)
v.)
FAYETTEVILLE POLICE)
DEPARTMENT,)
Defendant.)
_____)

ORDER

This cause comes before the Court on the memorandum and recommendation of United States Magistrate Judge Robert B. Jones, Jr. following frivolity review of plaintiff's complaint pursuant to 28 U.S.C. § 1915(e)(2). Plaintiff has objected to the memorandum and recommendation (M&R), and the matter is ripe for review. For the reasons discussed below, the Court adopts the M&R and dismisses plaintiff's complaint.

BACKGROUND

Plaintiff filed this action against the Fayetteville Police Department for allegedly violating state and local laws, including the 1964 Civil Rights Act. Plaintiff's complaint is, at best, difficult to comprehend as it appears to follow plaintiff's stream of consciousness and does not clearly identify any legal issues or factual support for plaintiff's claims. As revealed in plaintiff's opposition to the M&R, plaintiff apparently brings a civil rights action arising out of an alleged use of excessive force by Fayetteville police officers.

DISCUSSION

A claim proceeding *in forma pauperis* may be dismissed at any time if it is frivolous. 28 U.S.C. § 1915(e)(2)(B)(i). A complaint is frivolous if “it lacks an arguable basis either in law or fact.” *Neitzke v. Williams*, 490 U.S. 319, 325 (1989). To make a frivolity determination, a court may designate a magistrate judge “to submit . . . proposed findings of fact and recommendations” for the disposition of a variety of motions. 28 U.S.C. § 636(b)(1)(B).

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). *De novo* review is not required, however, when an objecting party makes only general or conclusory objections that do not direct a court to a specific error in the magistrate judge’s recommendations. *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Further, when “objections to strictly legal issues are raised and no factual issues are challenged, *de novo* review may be dispensed with.” *Id.*

The recommendation that this matter be dismissed is based upon plaintiff’s complete failure to identify a cause of action or assert any legal theory for relief. Plaintiff’s objection to the M&R points to no specific error in Judge Jones’ recommendation, but rather contains additional incomprehensible and disorganized allegations.

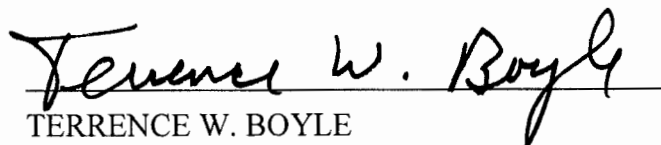
Because plaintiff has made no specific objections, the Court has reviewed the M&R for plain error and finds none. Even upon reviewing plaintiff’s complaint *de novo*, however, the Court finds that dismissal of this action as frivolous is appropriate.

CONCLUSION

For the foregoing reasons, the Court ADOPTS the M&R [DE 5]. Accordingly, for the

reasons discussed therein, plaintiff's complaint is hereby DISMISSED in its entirety.

SO ORDERED, this 5 day of June, 2013.

A handwritten signature in black ink that reads "Terrence W. Boyle". The signature is written in a cursive style and is positioned above a horizontal line.

TERRENCE W. BOYLE

UNITED STATES DISTRICT JUDGE