

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:17-CV-590-D

REINALDO OLAVARRIA,)
)
 Plaintiff,)
)
 v.)
)
 STATE OF NORTH CAROLINA,)
)
 Defendant.)

ORDER

On April 12, 2018, Magistrate Judge Numbers issued a Memorandum and Recommendation (“M&R”) and recommended that plaintiff’s application to proceed in forma pauperis be granted and that the complaint be dismissed as frivolous [D.E. 5]. On April 25, 2018, plaintiff filed an answer to the M&R and a motion to amend [D.E. 6], and a second answer to the M&R and motion to amend [D.E. 7].

“The Federal Magistrates Act requires a district court to make a de novo determination of those portions of the magistrate judge’s report or specified proposed findings or recommendations to which objection is made.” Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005) (emphasis, alteration, and quotation omitted); see 28 U.S.C. § 636(b). Absent a timely objection, “a district court need not conduct a 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, 416 F.3d at 315 (quotation omitted).

The court has reviewed the M&R, the record, and plaintiff’s objections. As for those portions of the M&R to which plaintiff made no objection, the court is satisfied that there is no clear error on the face of the record. As for the objections, plaintiff appears to concede that the analysis

in the M&R is correct and seeks to amend his complaint. See [D.E. 6, 7].

In sum, plaintiff's application to proceed in forma pauperis [D.E. 1] is GRANTED, plaintiff's objections to the M&R [D.E. 6, 7] are OVERRULED, and plaintiff's complaint [D.E. 1-1] is DISMISSED without prejudice. Plaintiff's motion to amend [D.E. 6,7] is GRANTED. Plaintiff must file his amended complaint not later than June 18, 2018.

SO ORDERED. This 19 day of May 2018.



JAMES C. DEVER III
Chief United States District Judge