

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

JOSE SALAZAR-MERCADO,)	
)	
Plaintiff,)	
)	
v.)	1:13CV1138
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	

ORDER

This matter is before this court for review of the Order and Recommendation ("Recommendation") filed on December 30, 2013, by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). (Doc. 3.) In the Recommendation, the Magistrate Judge recommends that this action be dismissed without prejudice to Plaintiff pursuing his claims in case 1:13CV335. The Recommendation was served on the parties to this action on December 30, 2013. On January 23, 2014, Plaintiff filed untimely objections (Doc. 5) to the Recommendation. See Fed. R. Civ. P. 72(b)(2) ("Within 14 days after being served with a copy of the recommended disposition, a party may serve and file . . . objections.").

This court is required 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.” 28 U.S.C. § 636(b)(1). This court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the [M]agistrate [J]udge. . . . [O]r recommit the matter to the [M]agistrate [J]udge with instructions.” Id.

In spite of the late filing, this court has appropriately reviewed the portions of the Recommendation to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge’s Recommendation. This court therefore adopts the Recommendation. As held in the Recommendation, Plaintiff’s claims are proceeding in case number 1:13CV335. That case remains pending and is proceeding.

IT IS THEREFORE ORDERED that the Magistrate Judge’s Recommendation (Doc. 3) is **ADOPTED**. **IT IS FURTHER ORDERED** that this action is **DISMISSED** without prejudice to Plaintiff pursuing his claims in case 1:13CV335. A Judgment dismissing this action will be entered contemporaneously with this Order.

This the 30th day of April, 2014.


United States District Judge