

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

JORGE R. BLACKMORE GOMEZ,

Plaintiff,

v.

MARK H. HARDIE et al.,

Defendants.

No. 3:13-cv-00161-ST

OPINION AND ORDER

MOSMAN, J.,

On February 19, 2013, Magistrate Judge Stewart issued her Findings and Recommendation (“F&R”) [4] in the above-captioned case, recommending that plaintiff’s application to proceed *in forma pauperis* [1] be granted, that plaintiff’s complaint [2] be dismissed without prejudice for lack of jurisdiction and with leave to file an amended complaint, and that plaintiff’s motion for appointment of *pro bono* counsel be granted for the specific purpose of filing an amended complaint. Plaintiff filed objections [7].

DISCUSSION

The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is generally required to make a *de novo* determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court

is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Stewart's recommendation, and I ADOPT the F&R [4] as my own opinion.

IT IS SO ORDERED.

DATED this 18th day of March, 2013.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Judge