

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>JESUS FLORES,</b>	:	<b>CIVIL ACTION NO. 1:14-CV-2108</b>
	:	
<b>Plaintiff</b>	:	<b>(Chief Judge Conner)</b>
	:	
<b>v.</b>	:	
	:	
<b>CLERK OF COURT OF LEHIGH</b>	:	
<b>COUNTY, et al.,</b>	:	
	:	
<b>Defendants</b>	:	

**ORDER**

AND NOW, this 23rd day of March, 2015, upon consideration of the report (Doc. 10) of Magistrate Judge Thomas M. Blewitt, recommending the court dismiss *pro se* plaintiff's complaint with leave to amend, transfer the matter to the United States District Court for the Eastern District of Pennsylvania, and defer resolution of plaintiff's motion (Doc. 7) to proceed *in forma pauperis* to the Eastern District, and, following an independent review of the record, the court being in agreement with the magistrate judge that plaintiff's complaint must be dismissed for failure to state a cognizable constitutional claim, and that such dismissal should be without prejudice to plaintiff's ability to file an amended pleading attempting to cure the deficiencies identified in the report, and the court also in agreement with the recommendation to transfer the matter to the Eastern District of Pennsylvania, where the claim asserted by plaintiff arose, and the court noting that plaintiff filed

an objection<sup>1</sup> (Doc. 13) to the report, and finding his objection to be without merit and squarely addressed by Judge Blewitt's report, it is hereby ORDERED that:

1. The report (Doc. 10) of Magistrate Judge Blewitt is ADOPTED.
2. Plaintiff's complaint (Doc. 1) is DISMISSED without prejudice.
3. Plaintiff is granted leave to amend his pleading within twenty (20) days of the date of this order.
4. Any amended pleading filed pursuant to paragraph 3 shall be filed to the same docket number as the instant action, shall be entitled "First Amended Complaint," and shall be complete in all respects. It shall be a new pleading which stands by itself as an adequate complaint under the Federal Rules of Civil Procedure, without reference to the complaint (Doc. 1) hereinabove dismissed.
5. Any appeal from this order is deemed to be frivolous and not taken in good faith. See 28 U.S.C. § 1915(a)(3).
6. The Clerk of Court is directed to TRANSFER the above-captioned action to the United States District Court for the Eastern District of Pennsylvania.

/S/ CHRISTOPHER C. CONNER

Christopher C. Conner, Chief Judge  
United States District Court  
Middle District of Pennsylvania

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<sup>1</sup> When a party objects to a magistrate judge's report and recommendation, the district court performs a *de novo* review of the contested portions of the report. See Behar v. Pa. Dep't of Trans., 791 F. Supp. 2d 383, 389 (M.D. Pa. 2011) (citing Sample v. Diecks, 885 F.2d 1099, 1106 n.3 (3d Cir. 1989); 28 U.S.C. § 636(b)(1)(c)). In this regard, Local Rule of Court 72.3 requires written objections to "specifically identify the portions of the proposed findings, recommendations or report to which objection is made and the basis for those objections." LOCAL RULE OF COURT 72.3; also Behar, 791 F. Supp. 2d at 389 (citing Shields v. Astrue, Civ. No. 07-417, 2008 U.S. Dist. LEXIS 74519, at \*6 (M.D. Pa. Sept. 8, 2008)).