

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

HAROLD CUNNINGHAM,	:	CIVIL ACTION NO. 1:17-CV-2069
	:	
Plaintiff	:	(Chief Judge Conner)
	:	
v.	:	
	:	
J.T. THOMAS, et al.,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 29th day of March, 2019, upon consideration of the report (Doc. 14) of Magistrate Judge Karoline Mehalchick, recommending that the court dismiss the complaint (Doc. 1) and various proposed amended pleadings (Docs. 4, 10, 13) of *pro se* plaintiff Harold Cunningham (“Cunningham”) for failure to state a claim for which relief may be granted pursuant to 28 U.S.C. § 1915A(b)(1), and further recommending that the court grant Cunningham an opportunity to amend his complaint in response to the report, and it appearing that Cunningham has not objected to the report, see FED. R. CIV. P. 72(b)(2), and the court noting that failure of a party to timely object to a magistrate judge’s conclusions “may result in forfeiture of *de novo* review at the district court level,” Nara v. Frank, 488 F.3d 187, 194 (3d Cir. 2007) (citing Henderson v. Carlson, 812 F.2d 874, 878-79 (3d Cir. 1987)), but that, as a matter of good practice, a district court should afford “reasoned consideration” to the uncontested portions of the report, E.E.O.C. v. City of Long Branch, 866 F.3d 93, 100 (3d Cir. 2017) (quoting Henderson, 812 F.2d at 879), in order to “satisfy itself that there is no clear error on the face of the record,” FED. R.

Civ. P. 72(b), advisory committee notes, and following independent review of the record, the court being in agreement with Judge Mehalchick's recommendation, and concluding that there is no clear error on the face of the record, it is hereby ORDERED that:

1. The report (Doc. 14) of Magistrate Judge Mehalchick is ADOPTED.
2. Cunningham's complaint (Doc. 1) and proposed amended pleadings (Docs. 4, 10, 13) are DISMISSED without prejudice.
3. Cunningham is granted leave to amend his pleading within 30 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) or proposed amended pleadings (Docs. 4, 10, 13) hereinabove dismissed.
5. If Cunningham files a timely amended pleading in accordance with paragraphs 3 and 4 above, this matter shall be remanded to Judge Mehalchick for further proceedings. If Cunningham fails to file a timely amended pleading, the Clerk of Court shall close this case.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania