

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

CHARLES E. SMITH,	:	CIVIL ACTION NO. 1:18-CV-1241
	:	
Plaintiff	:	(Chief Judge Conner)
	:	
v.	:	
	:	
COMMONWEALTH OF	:	
PENNSYLVANIA, et al.,	:	
	:	
Defendants	:	

ORDER

AND NOW, this 6th day of November, 2018, upon consideration of the report (Doc. 14) of Magistrate Judge Joseph F. Saporito, Jr., issued following review of the complaint (Doc. 1) of *pro se* plaintiff Charles E. Smith (“Smith”) pursuant to 28 U.S.C. § 1915(e)(2)(B), wherein Judge Saporito recommends the court dismiss Smith’s complaint for failure to state a claim for which relief may be granted, and it appearing that Smith has not objected to the report, see FED. R. CIV. P. 72(b)(2), and the court noting that failure 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 some level of review to dispositive legal issues raised by the report,” Henderson, 812 F.2d at 878; see also Taylor v. Comm’r of Soc. Sec., 83 F. Supp. 3d 625, 626 (M.D. Pa. 2015) (citing Univac Dental Co. v. Dentsply Int’l, Inc., 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010)), 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 Saporito'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 Saporito is ADOPTED.
2. Smith's complaint (Doc. 1) is DISMISSED with prejudice to the extent the complaint purports to asserts a claim pursuant to the Universal Declaration of Human Rights and a claim against the Commonwealth of Pennsylvania for monetary damages. The complaint (Doc. 1) is otherwise DISMISSED without prejudice.
3. Smith 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. In the absence of a timely-filed amended complaint, the Clerk of Court shall close the above-captioned action. In the event a timely amended complaint is filed, this matter shall be remanded to Judge Saporito for further proceedings.
6. Any appeal from this order is deemed to be frivolous and not taken in good faith. See 28 U.S.C. § 1915(a)(3).

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