

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

MIKE WERLINS,)	
)	
Plaintiff,)	
)	
v.)	No. 17-cv-2467-SHM-cgc
)	
DNI, DOD,)	
)	
Defendant.)	
)	
)	

ORDER

Before the Court is the Magistrate Judge’s Report and Recommendation, dated September 1, 2017 (the “Report”). (ECF No. 7.) The Report recommends that Plaintiff Mike Werlins’s *pro se* complaint against Defendant DNI, DOD be dismissed without prejudice under Federal Rule of Civil Procedure 41(b). Werlins has not filed any objections to the Report, and the deadline for doing so has passed. L.R. 72.1(g)(2).

For the following reasons, the Report is ADOPTED and Werlins’s *pro se* complaint against Defendant DNI, DOD is DISMISSED without prejudice.

On July 5, 2017, Werlins filed his complaint. (ECF No. 1.) It reads as follows:

Plaintiff brings suit against defendant on grounds of violation of article six, first amendment, sixth

amendment, ninth amendment, the fourteenth amendment and due process claus[e] of the United States constitution. And in violation of the Universal declaration of human rights, article[s] 1, 2, 3, 4 and various others.

(ECF No. 1 at 1.)¹

On July 14, 2017, United States Magistrate Judge Charmiane G. Claxton ordered Werlins to file a non-prisoner *in forma pauperis* affidavit within thirty days or the action would be dismissed under Rule 41(b) for failure to prosecute. (ECF No. 6 at 10.) Werlins did not file a non-prisoner *in forma pauperis* affidavit within the thirty-day deadline.

On September 1, 2017, the Magistrate Judge entered the Report. (ECF No. 7.) It recommends that the action be dismissed under Rule 41(b) for failure to prosecute. The Report explains as follows:

On July 5, 2017, Plaintiff Mike Werlins, a resident of St Charles, Missouri, filed a pro se complaint. (D.E.# 1.) However, Plaintiff neglected to pay the \$400.00 civil filing fee or submit a properly completed application to proceed in forma pauperis.

In an order issued on July 14, 2017, the Court ordered the Plaintiff to file a properly completed application to proceed *in forma pauperis* or pay the appropriate civil filing fee within thirty (30) days of the entry of the order. (D.E. # 6) Plaintiff has not complied with that order and the time set for compliance has expired.

¹ Unless otherwise noted, all in-cite page numbers refer to PageID numbers.

The July 14, 2017 Order provided, in pertinent part, that “[f]ailure to comply with this order in a timely manner will result in recommendation that this action be dismissed pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute.” Id. See also, Taman v. Chertoff, et al, 07-cv-2247-SHM-dkv, Order of Dismissal (D.E. # 4) April 30, 2008. It is therefore RECOMM[E]NDED that Plaintiff’s complaint be DISMISSED WITHOUT PREJUDICE, pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute.

(ECF No. 7 at 11-12.)

Congress enacted 28 U.S.C. § 636 to relieve the burden on the federal judiciary by permitting the assignment of district-court duties to magistrate judges. See United States v. Curtis, 237 F.3d 598, 602 (6th Cir. 2001) (citing Gomez v. United States, 490 U.S. 858, 869-70 (1989)); see also Baker v. Peterson, 67 F. App’x 308, 310 (6th Cir. 2003). For dispositive matters, “[t]he district judge must determine *de novo* any part of the magistrate judge’s disposition that has been properly objected to.” See Fed. R. Civ. P. 72(b)(3); 28 U.S.C. § 636(b)(1). After reviewing the evidence, the court is free to accept, reject, or modify the magistrate judge’s proposed findings or recommendations. 28 U.S.C. § 636(b)(1). The district court is not required to review -- under a *de novo* or any other standard -- those aspects of the report and recommendation to which no objection is made. Thomas v. Arn, 474 U.S. 140, 150 (1985). The district court should adopt the

magistrate judge's findings and rulings to which no specific objection is filed. Id. at 151.

Werlins has not objected to the Report. Therefore, the Report should be adopted. See Arn, 474 U.S. at 150-51.

For the foregoing reasons, the Report is ADOPTED and Werlins's *pro se* complaint is dismissed without prejudice.

So ordered this 19th day of October, 2017.

/s/ Samuel H. Mays, Jr.
SAMUEL H. MAYS, JR.
UNITED STATES DISTRICT COURT JUDGE