

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

DAVID HASTINGS,

Plaintiff,

v.

Case No: 2:17-cv-145-FtM-99CM

INMATE SERVICES CORPORATION,
JOHN DOES, 1 to 100, and JANE
DOES, 1 to 100,

Defendants.

OPINION AND ORDER

This matter is before the Court on consideration of the Magistrate Judge's Report and Recommendation (Doc. #62), filed October 31, 2018, recommending that plaintiff's Objection to Motion to Strike and/or Dismiss Plaintiff's Amended Complaint (Doc. #50), construed as a request to amend the complaint, be denied. No objections have been filed and the time to do so has expired.

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject or modify the magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); Williams v. Wainwright, 681 F.2d 732 (11th Cir. 1982), cert. denied, 459 U.S. 1112 (1983). In the absence of specific objections, there is no requirement that a district judge review factual findings *de novo*, Garvey v. Vaughn, 993 F.2d 776, 779 n.9

(11th Cir. 1993), and the court may accept, reject or modify, in whole or in part, the findings and recommendations. 28 U.S.C. § 636(b)(1). The district judge reviews legal conclusions *de novo*, even in the absence of an objection. See Cooper-Houston v. Southern Ry. Co., 37 F.3d 603, 604 (11th Cir. 1994); Castro Bobadilla v. Reno, 826 F. Supp. 1428, 1431-32 (S.D. Fla. 1993), aff'd, 28 F.3d 116 (11th Cir. 1994) (Table).

The Magistrate Judge recommends that plaintiff has not shown good cause to extend the deadline for motions to amend pleadings. The deadline expired on March 15, 2018, and plaintiff did not seek leave to amend until April 27, 2018, and significantly that plaintiff first expressed the desire for a class action suit back in July 2017, but took no action for months. The Magistrate Judge further recommends that the proposed amendment would be futile because it would be subject to dismissal based on plaintiff's inability to represent a class *pro se*, and previous denials for the appointment of counsel. Lastly, to the extent plaintiff is seeking a certification of the class, the Magistrate Judge recommends that the request is premature.

After conducting an independent examination of the file and upon due consideration of the Report and Recommendation, the Court accepts the Report and Recommendation of the magistrate judge to the extent that the request is untimely, and premature since it also seeks leave of Court to obtain class counsel.


Accordingly, it is now

ORDERED:

1. The Report and Recommendation (Doc. #62) is hereby **adopted** and the findings incorporated herein.

2. Plaintiff's Objection to Motion to Strike and/or Dismiss Plaintiff's Amended Complaint (Doc. #50) construed as a motion to amend the complaint (Doc. #50) is **DENIED**.

DONE and ORDERED at Fort Myers, Florida, this 27th day of November, 2018.



JOHN E. STEELE
SENIOR UNITED STATES DISTRICT JUDGE

Copies:
Hon. Carol Mirando
United States Magistrate Judge

Counsel of Record
Unrepresented parties