

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

ANTHONY M. JORDAN,

Plaintiff,

v.

Case No: 2:17-cv-683-FtM-99CM

THE UNITED STATES DEPARTMENT
OF EDUCATION and THE
UNIVERSITY OF SOUTH FLORIDA,

Defendants.

OPINION AND ORDER

This matter is before the Court on consideration of the Magistrate Judge's Report and Recommendation (Doc. #10), filed October 4, 2018, recommending that the case be dismissed without prejudice. 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).

Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs (Doc. #2) was denied and plaintiff was directed to pay the filing fee and file an amended complaint. (Doc. #8.) Plaintiff did not comply, and an Order (Doc. #9) to show cause was issued on June 20, 2018. Plaintiff did not respond.

The Magistrate Judge recommends that plaintiff has failed to demonstrate subject matter jurisdiction because the federal question presented by the Bivens¹ claim is implausible and frivolous, and barred by the statute of limitations. The Magistrate Judge recommends that any claim seeking to challenge the Higher Education Technical Amendments of 1991 as a violation of the ex post facto clause is also frivolous. The Magistrate Judge further recommends that plaintiff's allegations are insufficient to state a claim for breach of contract, conversion or negligence. After conducting an independent examination of the file and upon due consideration of the Report and Recommendation,

¹ Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics, 403 U.S. 388 (1971).

the Court accepts the Report and Recommendation of the magistrate judge.

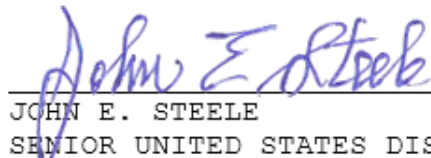
Accordingly, it is now

ORDERED:

1. The Report and Recommendation (Doc. #10) is hereby **adopted** and the findings incorporated herein.

2. The Clerk shall enter judgment dismissing the case without prejudice, terminate all pending motions and deadlines, and close the file.

DONE and ORDERED at Fort Myers, Florida, this 25th day of October, 2018.



JOHN E. STEELE
SENIOR UNITED STATES DISTRICT JUDGE

Copies:
Hon. Carol Mirando
United States Magistrate Judge

Counsel of Record
Unrepresented parties