

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

DONALD JONES,

Plaintiff,

v.

Case No: 2:18-cv-649-FtM-38CM

BANK OF AMERICA and REVERSE  
MORTGAGE SOLUTIONS, INC.,

Defendants.

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**OPINION AND ORDER**<sup>1</sup>

Before the Court is United States Magistrate Judge Carol Mirando's Report and Recommendation. ([Doc. 30](#)). Judge Mirando recommends dismissing the case without prejudice under [28 U.S.C. § 1915](#) because the Amended Complaint is a shotgun pleading, fails to state claims for age discrimination, constitutional violations, and fraud, and fails to plead subject matter jurisdiction. Plaintiff Donald Jones, appearing *pro se*, objects to the Report and Recommendation. ([Doc. 35](#)).

A district judge "may accept, reject, or modify in whole or in part, the findings or recommendations made by the magistrate judge." [28 U.S.C. § 636\(b\)\(1\)](#). The district judge "shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.* And "[t]he judge

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may also receive further evidence or recommit the matter to the magistrate judge with instructions.” *Id.*

After a careful and complete review of the findings and recommendations, as well as the record in this case, the Court accepts and adopts the Report and Recommendation over Jones’ objections. Jones has not identified any specific Constitutional provisions or federal statutes as the basis for his claims. And Judge Miranda properly considered all possible bases for his claims considering his *pro se* status and still found the Amended Complaint to be lacking. The Court thus dismisses the Amended Complaint without prejudice. Because of Jones’ *pro se* status, however, the Court will grant him one last chance to present a viable pleading consistent with this Opinion and Order and the Report and Recommendation.

Accordingly, it is

**ORDERED:**

- (1) United States Magistrate Judge Carol Miranda’s Report and Recommendation ([Doc. 30](#)) is **ACCEPTED** and **ADOPTED** and the findings incorporated herein.
- (2) The Amended Complaint is **DISMISSED** without prejudice.
- (3) Plaintiff Donald Jones may file a Second Amended Complaint on or before **January 11, 2018**, for further consideration under [28 U.S.C. § 1915](#). **The failure to file a Second Amended Complaint will result in the closure of the case without further notice.**
- (4) Jones’ Motion Objection to the Report and Recommendation ([Doc. 35](#)) is **OVERRULED**.

**DONE** and **ORDERED** in Fort Myers, Florida this 21st day of December 2018.

  
**SHERI POLSTER CHAPPELL**  
**UNITED STATES DISTRICT JUDGE**

Copies: United States Magistrate Judge Carol Mirando  
All Parties of Record