

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

STEPHEN LEONARD
GUARDINO, JR.,

Plaintiff,

v.

CASE NO. 3:18-cv-1391-J-34JBT

RIVER POINT BEHAVIORAL
HEALTH,

Defendant.

_____ /

REPORT AND RECOMMENDATION¹

THIS CAUSE is before the Court on pro se Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs, which the Court construes as a Motion to Proceed *In Forma Pauperis* ("IFP Motion") (Doc. 2). For the reasons stated herein, the undersigned respectfully **RECOMMENDS** that the IFP Motion be **DENIED** and the case be **DISMISSED without prejudice**.

In its prior Order (Doc. 8), the Court took the IFP Motion under advisement and stated that Plaintiff's Complaint (Doc. 1) was "barely comprehensible" and

¹ "Within 14 days after being served with a copy of [this Report and Recommendation], a party may serve and file specific written objections to the proposed findings and recommendations." Fed. R. Civ. P. 72(b)(2). "A party may respond to another party's objections within 14 days after being served with a copy." *Id.* A party's failure to serve and file specific objections to the proposed findings and recommendations alters the scope of review by the District Judge and the United States Court of Appeals for the Eleventh Circuit, including waiver of the right to challenge anything to which no specific objection was made. See Fed. R. Civ. P. 72(b)(3); 28 U.S.C. § 636(b)(1)(B); 11th Cir. R. 3-1; Local Rule 6.02.

otherwise deficient. (Doc. 8 at 3.) Preliminarily, the Court noted:

This is one of at least fifteen lawsuits filed by Plaintiff in this district in the last three months. See *Guardino v. Flagler Hospital St. Augustine*, Case No. 3:18-cv-1389-J-32PDB (Doc. 5 at 1 n.1) (collecting cases). Several of these cases, including this one, are based at least in part on Plaintiff's apparent belief that ordinary aerial photographs taken from Google Earth contain hidden sexual, violent, and/or offensive images. (See *id.* at 7 n.3) (collecting cases). Despite Plaintiff's allegations to the contrary, the Google Earth photographs at issue in this case, which purportedly show River Point Behavioral Health and a location in New Jersey, do not contain any such hidden images. (See Doc. 1-2.)

(Doc. 8 at 3.) Upon review of Plaintiff's allegations regarding the subject Google Earth photographs, which purportedly included a "space cadet" and "someone getting rectal surgery," the Court stated: "To the extent Plaintiff is attempting to state a claim based on the Google Earth photographs, any such claim is frivolous because the allegations in support thereof are 'fanciful, fantastic, and delusional.' See *Denton v. Hernandez*, 504 U.S. 25, 32–33 (1992) (citations and quotations omitted)." (Doc. 8 at 4.)

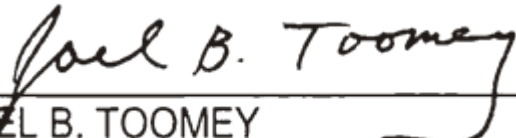
Additionally, Plaintiff alleged in conclusory terms that an unnamed psychiatrist injected him with a drug known to cause rectal bleeding without his informed consent. (Doc. 1 at 5.) Plaintiff further alleged that he suffered a rectal prolapse, and that Defendant delayed in taking him to the hospital and failed to provide him with pain medication. (*Id.*) In addressing these allegations, the Court stated: "These sparse, conclusory allegations are insufficient to state a claim or to establish subject matter jurisdiction." (Doc. 8 at 3–4.)

Therefore, Plaintiff was ordered to “file an amended complaint in compliance with [the prior] Order” on or before January 24, 2019. (*Id.* at 4.) Plaintiff was cautioned that if he “fails to do so, the undersigned will likely recommend that the District Judge deny the [IFP] Motion and dismiss this action.” (*Id.* at 4–5.) To date, Plaintiff has not filed an amended complaint or taken any other action regarding this case. For this reason, and the reasons stated in the prior Order, the undersigned recommends that this case be dismissed for Plaintiff’s failure to state a claim on which relief may be granted and failure to prosecute.

Accordingly, it is respectfully **RECOMMENDED** that:

1. The IFP Motion (**Doc. 2**) be **DENIED**.
2. The case be **DISMISSED without prejudice**.
3. The Clerk of Court be directed to terminate any pending motions and close the file.

DONE AND ENTERED at Jacksonville, Florida, on February 7, 2019.



JOEL B. TOOMEY
United States Magistrate Judge

Copies to:

The Honorable Marcia Morales Howard
United States District Judge

Pro Se Plaintiff