

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

MICHAEL E. SHARPE,

Plaintiff,

v.

Case No. 8:20-cv-2391-T-60SPF

RON DESANTIS, Governor of the State
of Florida, JONATHAN SATTER,
Secretary of the Department of
Management, and the DEPARTMENT
OF ECONOMIC OPPORTUNITY,

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION

This matter is before the Court on consideration of the report and recommendation of Sean P. Flynn, United States Magistrate Judge, entered on October 19, 2020. (Doc. 3). Judge Flynn recommends Plaintiff's motion for leave to proceed *in forma pauperis* (Doc. 2) be denied without prejudice, and that his complaint (Doc. 1) be dismissed without prejudice with leave to file an amended complaint due to several deficiencies. Neither Plaintiff nor Defendants filed an objection to the report and recommendation, and the time to object 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). 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)(C). The district judge reviews legal conclusions *de novo*, even in the absence of an objection. *See Cooper-Houston v. S. 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).

Upon due consideration of the record, including Judge Flynn's report and recommendation, the Court adopts the report and recommendation. Consequently, Plaintiff's *in forma pauperis* motion is denied without prejudice. The complaint is dismissed without prejudice with leave to amend to cure the deficiencies identified by Judge Flynn in his report and recommendation. Plaintiff is directed to file his amended complaint on or before December 4, 2020. Failure to file an amended complaint as directed will result in this Order becoming a final judgment. *See Auto. Alignment & Body Serv., Inc. v. State Farm Mut. Auto. Ins. Co.*, 953 F.3d 707, 719-20 (11th Cir. 2020).

Accordingly, it is

ORDERED, ADJUDGED, and DECREED:

- (1) Judge Flynn's report and recommendation (Doc. 3) is **AFFIRMED** and **ADOPTED** and **INCORPORATED BY REFERENCE** into this Order for all purposes, including appellate review.

(2) Plaintiff's motion for leave to proceed *in forma pauperis* (Doc. 2) is hereby **DENIED WITHOUT PREJUDICE**.

(3) The complaint (Doc. 1) is **DISMISSED WITHOUT PREJUDICE**, with leave to amend. Plaintiff is directed to file his amended complaint on or before December 4, 2020, along with a renewed motion to proceed *in forma pauperis*. Failure to file an amended complaint as directed will result in this Order becoming a final judgment. *See Auto. Alignment & Body Serv., Inc. v. State Farm Mut. Auto. Ins. Co.*, 953 F.3d 707, 719-20 (11th Cir. 2020).

DONE and **ORDERED** in Chambers, in Tampa, Florida, this 4th day of November, 2020.



TOM BARBER
UNITED STATES DISTRICT JUDGE