

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

DIETRICH LORAIN LANGSTON,
CALVIN MOBLEY, DWIGHT
LANGSTON JR., REGINAL YOUNG,
DELIA LANGSTON, BRITTANY
LANGSTON, SHAKERA
LANGSTON, DANAEE WILLAMS,
BRIA LANGSTON, BETHANY
LANGSTON, TITUS JACKSON,
CHANCE LANGSTON, CYLAS
MCKINNES, AZIAH ACOSTA,
ARIEL ACOSTA and DWIGHT
LANGSTON SR.,

Plaintiffs,

v.

Case No: 8:23-cv-656-CEH-AEP

JERGES CARDONA, JONATHAN
FOREMAN, NIRAN PATEL, INDI
VASUDEVA, JOHN A. VENZOR,
AMMAR SAIFO, AZZAT A. ALI,
LISARDO LAMELAS and ADVENT
HOSPITAL,

Defendants.

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ORDER

This cause comes before the Court on the Report and Recommendation filed by Magistrate Judge Anthony E. Porcelli on October 11, 2023 (Doc. 11). In the Report and Recommendation, Magistrate Judge Porcelli recommends that: (1) Plaintiff's Motion to proceed *in forma pauperis* (Doc. 9) be denied; (2) Plaintiff's Amended Complaint (Doc. 8) be dismissed with prejudice; (3) Plaintiff's Motion for Leave to File Amended Complaint (Doc. 10) be denied as moot; and (4) The Clerk be directed

to close the case. Plaintiff was provided a copy of the Report and Recommendation and afforded the opportunity to file objections pursuant to 28 U.S.C. § 636(b)(1).

On October 26, 2023, Plaintiff requested an extension of time in which to file objections to the report and recommendation, which the Magistrate Judge granted. Docs. 12, 13. The Magistrate Judge gave Plaintiff until November 20, 2023, in which to file objections, advising Plaintiff that any future request for extension of time must demonstrate good cause. Doc. 13. On November 20, 2023, Plaintiff filed a second request for extension of time, stating Plaintiff is looking for counsel. Doc. 14. On December 7, 2023, the Magistrate Judge granted Plaintiff's requested extension and gave Plaintiff until January 5, 2024, in which to file objections to the report and recommendation. Doc. 15. The Magistrate Judge cautioned Plaintiff that absent exigent circumstances, no further extensions were likely to be granted. Doc. 15. On January 5, 2024, rather than file any objections, Plaintiff again sought a third extension of time because Plaintiff has not been feeling well and was seeking assistance of counsel. Doc. 16. The Magistrate Judge granted Plaintiff's third request for extension of time, gave Plaintiff an additional month until February 9, 2024, in which to file objections to the report and recommendation, and advised Plaintiff that no further extensions would be granted. Doc. 17. The Magistrate Judge's order indicated that Plaintiff's unspecified illness does not represent good cause, but one final extension was nonetheless granted.

On February 8, 2024, Plaintiff filed a fourth request for an extension of time stating he is trying his best. Plaintiff claims to need surgery but, as with the last request

for an extension of time, Plaintiff provides no details or information regarding the need for such medical care and why it is preventing Plaintiff from filing a response to the report and recommendation. The Magistrate Judge denied Plaintiff's fourth request for an extension of time because the Court lacks jurisdiction and there is no indication in Plaintiff's filings that the deficiencies in the Amended Complaint will be able to be corrected. Doc. 19. Plaintiff was given three extensions of time and has had over four months in which to file objections to the report and recommendation. No such objections were filed.

Upon careful consideration of the Report and Recommendation, and upon this Court's independent examination of the file, it is determined that Plaintiff has been afforded ample opportunity to file objections, no further extensions of time in which to file objections are warranted, and that the Report and Recommendation should be adopted, confirmed, and approved in all respects, except to the extent that the Court will dismiss the case without prejudice. *See Dupree v. Owens*, No. 21-12571, – F.4th –, 2024 WL 439462, at *6 (11th Cir. Feb. 6, 2024) (dismissal for lack of jurisdiction operates as a dismissal without prejudice).

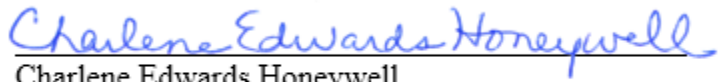
Accordingly, it is now,

ORDERED AND ADJUDGED:

- (1) The Report and Recommendation of the Magistrate Judge (Doc. 11) is adopted, confirmed, and approved in all respects, except to the extent the dismissal will be without prejudice, and is made a part of this Order for all purposes, including appellate review.

- (2) Plaintiff's Motion to proceed *in forma pauperis* (Doc. 9) is **denied**.
- (3) Plaintiff's Amended Complaint (Doc. 8) is **dismissed without prejudice** for lack of jurisdiction.
- (4) Plaintiff's Motion for Leave to File Amended Complaint (Doc. 10) is **denied as moot**.
- (5) The Clerk is directed to **close** this case.

DONE AND ORDERED at Tampa, Florida on February 22, 2024.


Charlene Edwards Honeywell
United States District Judge

Copies to:
The Honorable Anthony E. Porcelli
Counsel of Record
Dietrich Langston, *pro se*