

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

ANTHONY M. AUGUSTA,

Plaintiff,

v.

Case No. 5:23-cv-667-MMH-PRL

AUGUSTO D. PAINI,

Defendant.

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ORDER

THIS CAUSE is before the Court on the Report and Recommendation (Dkt. No. 4; Report), entered by the Honorable Philip Lammens, United States Magistrate Judge, on November 20, 2023. In the Report, Judge Lammens recommends that Plaintiff's Motion to Proceed In Forma Pauperis (Dkt. No. 2) be denied and Plaintiff's Complaint (Dkt. No. 1) be dismissed. See Report at 1, 5. Plaintiff has failed to file objections to the Report, and the time for doing so has now passed.

The Court "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). Pursuant to Rule 72, Federal Rules of Civil Procedure (Rule(s)), the Court "must determine de novo any part of the magistrate judge's disposition that

has been properly objected to.” See Rule 72(b)(3); see also 28 U.S.C. § 636(b)(1). However, a party waives the right to challenge on appeal any unobjected-to factual and legal conclusions. See 11th Cir. R. 3-1.¹ As such, the Court reviews those portions of the Magistrate Judge’s findings to which no objection was filed for plain error and only if necessary, in the interests of justice. See id.; see also Thomas v. Arn, 474 U.S. 140, 150 (1985) (“It does not appear that Congress intended to require district court review of a magistrate [judge’s] factual or legal conclusions, under a de novo or any other standard, when neither party objects to those findings.”); Dupree v. Warden, 715 F.3d 1295, 1304-05 (11th Cir. 2013) (recommending the adoption of what would become 11th Circuit Rule 3-1 so that district courts do not have “to spend significant amounts of time and resources reviewing every issue—whether objected to or not.”).

Upon independent review of the file and for the reasons stated in the Magistrate Judge’s Report, the Court will accept and adopt the legal and factual conclusions recommended by the Magistrate Judge. Accordingly, it is hereby

ORDERED:

¹ The Magistrate Judge properly informed the parties of the time period for objecting and the consequences of failing to do so. See Report at 1 n.1.

1. The Magistrate Judge's Report and Recommendation (Dkt. No. 4) is **ADOPTED** as the opinion of the Court.
2. Plaintiff's Motion to Proceed In Forma Pauperis (Dkt. No. 2) is **DENIED**.
3. This case is **DISMISSED**.
4. The Clerk of Court is directed to enter judgment dismissing this case, terminate all pending motions and deadlines as moot, and close the file.

DONE AND ORDERED in Chambers this 12th day of December, 2023.


MARCIA MORALES HOWARD
United States District Judge

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Copies to:

Counsel of Record
Pro Se Party