

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

ALTON TYRONE PETTWAY,

Plaintiff,

v.

Case No: 8:23-cv-1785-MSS-CPT

AMAZON FULFILLMENT
CENTER,

Defendants.

ORDER

THIS CAUSE comes before the Court for consideration of Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs, (Dkt. 2), which the Court construes as a motion to proceed *in forma pauperis*, and Plaintiff's Complaint. (Dkt. 1) Also before the Court is the parties' Second Joint Unopposed Motion to Amend the Scheduling Order. (Dkt. 21) On February 23, 2024, United States Magistrate Judge Christopher P. Tuite issued a Report and Recommendation, (Dkt. 20), which recommended Plaintiff's Motion to Proceed *In Forma Pauperis* be denied without prejudice and Plaintiff's Complaint be dismissed with leave to amend. The parties have not objected to Judge Tuite's Report and Recommendation and the deadline for doing so has passed. Upon consideration of all relevant filings, case law, and being otherwise fully advised, the Court **DENIES** Plaintiff's Motion to Proceed

In Forma Pauperis without prejudice and **DISMISSES** the Complaint with leave to amend.

In the Eleventh Circuit, a district judge may accept, reject, or modify the magistrate judge's report and recommendation after conducting a careful and complete review of the findings and recommendations. 28 U.S.C. § 636(b)(1); Williams v. Wainwright, 681 F.2d 732, 732 (11th Cir. 1982). A 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.” 28 U.S.C. § 636(b)(1)(C). This requires that the district judge “give fresh consideration to those issues to which specific objection has been made by a party.” Jeffrey S. v. State Bd. of Educ., 896 F.2d 507, 512 (11th Cir.1990) (quoting H.R. 1609, 94th Cong. § 2 (1976)). Absent 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. Southern Ry., 37 F.3d 603, 604 (11th Cir. 1994).

Upon consideration of the Report and Recommendation, in conjunction with an independent examination of the file, the Court is of the opinion the Report and Recommendation should be adopted, confirmed, and approved in all respects. Additionally, the Court finds good cause exists to amend the mandatory initial

disclosures deadline in the Case Management and Scheduling Order. (Dkt. 17)

Accordingly, it is **ORDERED** that:

1. The Report and Recommendation, (Dkt. 20), is **CONFIRMED** and **ADOPTED** as part of this Order.
2. Plaintiff's Motion to Proceed *In Forma Pauperis*, (Dkt. 2), is **DENIED** without prejudice.
3. The Complaint, (Dkt. 1), is **DISMISSED** with leave to amend. Plaintiff may file an amended complaint within thirty (30) days of the date of this Order.
4. If Plaintiff files an amended complaint, Plaintiff is **DIRECTED** to file a renewed motion to proceed *in forma pauperis* which addresses whether he hired his attorney on a *pro bono* or contingency basis.
5. The Second Joint Unopposed Motion to Amend the Scheduling Order, (Dkt. 21), is **GRANTED**. The deadline for the parties to file their mandatory initial disclosures is hereby extended to May 20, 2024. All other deadlines in the Case Management and Scheduling Order shall remain in full force and effect.

DONE and **ORDERED** in Tampa, Florida, this 14th day of March 2024.



Thomas P. Barber
United States District Judge

Copies Furnished to:
Counsel of Record
Any pro se party