

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

ADAM JOSHUA MACKER,

Plaintiff,

v.

Case No: 6:23-cv-1963-JSS-DCI

JACOB JOSHUA MACKER, HAILEY
NICE, JACQUELINE NOORLEENE
KUJAWA MACKER RAMIERI,
MATHEW RAMIERI, MESHELLE
NAYLOR, JASON STICKLES, RYAN
QUINN, MICHAEL CHITWOOD,
DEPUTY IGO, BRANDON KING and
PERDUE, BRANDON, FELDER,
COLLINS & MOTT, LLP,

Defendants.

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ORDER

Plaintiff Adam Macker, proceeding pro se, initiated this action against Defendants by filing a complaint on October 11, 2023. (Dkt. 1.) Defendants Chitwood; Naylor; Stickles; Igo; King; and Perdue, Brandon, Felder, Collins & Mott, LLP filed motions to dismiss the complaint. (Dkts. 44, 45.) Plaintiff thereafter filed motions for leave to supplement. (Dkts. 53, 54.) On January 30, 2024, United States Magistrate Judge Daniel Irick entered a Report and Recommendation recommending that Defendants' motions to dismiss be granted in part and Plaintiff's motions to supplement be denied. (Dkt. 55.) Specifically, the Magistrate Judge recommended that Plaintiff's claims brought pursuant to federal criminal statutes 18 U.S.C. §§ 241,

1341 be dismissed with prejudice as Plaintiff cannot pursue a private right of action under those statutes, and that Plaintiff's claims brought pursuant to 42 U.S.C. § 1983 be dismissed without prejudice as an impermissible shotgun pleading. (Dkt. 55.) On January 31, 2024, the court sua sponte dismissed this action without prejudice for failure to timely file a case management report. (Dkt. 56.) On February 20, 2024, the court granted Plaintiff's motion for reconsideration, vacated its dismissal order, reopened the case, and permitted the parties to file objections to the Magistrate Judge's Report and Recommendation on or before March 8, 2024. (Dkt. 61.)¹ The deadline for filing objections has passed and no party has objected to the Report and Recommendation.

After conducting a careful and complete review of the findings and recommendations, a district judge “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)(1); *see also* Fed. R. Civ. P. 72. With respect to non-dispositive matters, the district judge “must consider timely objections and modify or set aside any part of the order that is clearly erroneous or is contrary to law.” Fed. R. Civ. P. 72(a); *see Jordan v. Comm’r, Miss. Dep’t of Corr.*, 947 F.3d 1322, 1327 (11th Cir. 2020). For dispositive matters, the district judge must conduct a de novo review of any portion of the report and recommendation to which a timely objection is made. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3); *United States v. Farias-Gonzalez*, 556 F.3d 1181, 1184 n.1 (11th Cir.

¹ On March 18, 2024, this case was reassigned to the undersigned. (Dkt. 73.)

2009) (“A district court makes a de novo determination of those portions of a magistrate’s report to which objections are filed.”). Even in the absence of a specific objection, the district judge reviews any legal conclusions de novo. *See Cooper-Houston v. S. Ry. Co.*, 37 F.3d 603, 604 (11th Cir. 1994); *Ashworth v. Glades Cnty. Bd. of Cnty. Comm’rs*, 379 F. Supp. 3d 1244, 1246 (M.D. Fla. 2019).

Upon conducting a careful and complete review of the Magistrate Judge’s findings, conclusions, and recommendations, and giving de novo review to matters of law, the court adopts the report and recommendation in full.

Accordingly:

1. The Magistrate Judge’s Report and Recommendation (Dkt. 55) is **ACCEPTED** and **ADOPTED**.
2. Defendants Michael Chitwood, Meshelle Naylor, Jason Stickle, Deputy Igo, and Brandon King’s Motion to Dismiss (Dkt. 44) and Defendant Perdue, Brandon, Felder, Collins & Mott, LLP’s Motion to Dismiss Complaint (Dkt. 45) are **GRANTED in part** to the extent that Plaintiff’s claims brought pursuant to 18 U.S.C. §§ 241, 1341 are **DISMISSED with prejudice** and the remainder of Plaintiff’s Complaint is **DISMISSED without prejudice**. The remainder of the Motions to Dismiss is denied.
3. Plaintiff’s Motions to Supplement (Dkts. 53, 54) are **DENIED**.
4. Plaintiff shall file an amended complaint, if any, within 30 days of this order, that corrects the deficiencies explained in the Magistrate Judge’s

Report and Recommendation (Dkt. 55). Plaintiff's amended complaint, if any, shall not include causes of action for violations of 18 U.S.C. §§ 241, 1341 that are dismissed with prejudice. Failure to timely file an amended complaint will result in the dismissal of this action without further notice.

ORDERED in Orlando, Florida, on April 26, 2024.



JULIE S. SNEED
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel of Record
Unrepresented Parties