

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

MARK MONTENERO and
ARLENE MONTENERO,

Plaintiffs,

v.

Case No.: 2:24-cv-973-SPC-KCD

MARRIOT HOTEL SERVICES,
LLC,

Defendant.

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OPINION AND ORDER

Before the Court is United States Magistrate Judge Kyle C. Dudek's Report and Recommendation (Doc. 38). Judge Dudek recommends that the Court dismiss this action without prejudice for failure to prosecute. No party objected, so the matter is ripe for review.

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," a magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1)(C). In the absence of a specific objection, there is no requirement that a district judge review a report and recommendation de novo. *See Garvey v. Vaughn*, 993 F.2d 776, 779 n.9 (11th Cir. 1993). Instead, when parties don't object, a district court need only correct plain error as demanded by the

interests of justice. *See, e.g., Symonette v. V.A. Leasing Corp.*, 648 F. App'x 787, 790 (11th Cir. 2016); *Thomas v. Arn*, 474 U.S. 140, 150-52 (1985). Plain error exists if (1) “an error occurred”; (2) “the error was plain”; (3) “it affected substantial rights”; and (4) “not correcting the error would seriously affect the fairness of the judicial proceedings.” *Farley v. Nationwide Mut. Ins.*, 197 F.3d 1322, 1329 (11th Cir. 1999).

After careful consideration and an independent review of the case, the Court finds no plain error. It accepts and adopts the Report and Recommendation in full.

Accordingly, it is now **ORDERED**:

1. Judge Dudek’s Report and Recommendation (Doc. 38) is **ACCEPTED and ADOPTED**, and the findings incorporated herein.
2. This action is **DISMISSED without prejudice** for failure to prosecute.
3. The Clerk is **DIRECTED** to deny any pending motions as moot, terminate any deadlines, and close the case.

DONE and ORDERED in Fort Myers, Florida on January 23, 2025.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies: All Parties of Record