IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 20-14268-C

DAVID JAMES LOLA,

Plaintiff - Appellant,

versus

MIAMI HERALD, INC.,
MONROE COUNTY SHERIFF'S OFFICE,
RICK RAMSEY,
Sheriff,
MONROE COUNTY,
MONROE COUNTY BOARD OF COMMISSIONERS, et al.,

Defendants - Appellees.

Appeal from the United States District Court
for the Southern District of Florida

ENTRY OF DISMISSAL: Pursuant to the 11th Cir.R.42-1(b), this appeal is DISMISSED for want of prosecution because the Appellant David James Lola failed to pay the filing and docketing fees (or file a motion in the district court for relief from the obligation to pay in advance the full fee) to the district court within the time fixed by the rules, effective December 30, 2020.

DAVID J. SMITH
Clerk of Court of the United States Court
of Appeals for the Eleventh Circuit

by: Walter Pollard, C, Deputy Clerk

FOR THE COURT - BY DIRECTION

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

KEY WEST DIVISION

CASE NO. 4:20-cv-10091-JLK

DAVID JAMES LOLA,

Plaintiff,

v.

MIAMI HERALD, INC., et al.,

Defendants.
_____/

ORDER AFFIRMING MAGISTRATE'S REPORT AND RECOMMENDATION AND DISMISSING PLAINTIFF'S AMENDED COMPLAINT

THIS CAUSE comes before the Court upon the October 13, 2020 Report and Recommendation ("R&R") of Magistrate Judge Lisette M. Reid (DE 12), recommending that Plaintiff's Complaint (DE 1) be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute and for failure to comply with court orders.

The record reflects that Plaintiff was afforded multiple opportunities to amend his complaint to comply with the local rules. (*See* DE 3, 5, 9). However, instead of amending his complaint as Judge Reid so ordered (*see* DE 5,9), Plaintiff appealed these orders to the district court for review. (*See* DE 6,11). Plaintiff ultimately filed an Amended Complaint "under protest" (Am. Compl. ¶1, DE 13), yet Plaintiff still failed to comply with the local rules and Judge Reid's instructions.

Accordingly, it is **ORDERED, ADJUDGED, and DECREED** that:

1. Magistrate Judge Lisette M. Reid's October 13, 2020 Report and Recommendation **(DE**

12) be, and the same is, hereby **AFFIRMED and ADOPTED** as an Order of this Court;

2. Plaintiff's Amended Complaint **(DE 13)** is hereby **DISMISSED WITHOUT PREJUDICE** under Federal Rule of Procedure 41(b) for failure to comply with court orders. Plaintiff may file a new case under a new case assignment, if he so desires;
3. All pending motions are hereby **DENIED as moot**; and
4. The Clerk of Court shall **CLOSE** this case.

DONE AND ORDERED in chambers at the James Lawrence King Federal Justice Building and United States Courthouse, Miami, Florida, this 16th day of October, 2020.

JAMES LAWRENCE KING
UNITED STATES DISTRICT JUDGE

cc: All Counsel of Record

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 20-10091-CV-KING
MAGISTRATE JUDGE REID

DAVID JAMES LOLA,

Plaintiff,

v.

MIAMI HERALD INC., et al.,

Defendants.
_____/

REPORT AND RECOMMENDATION OF MAGISTRATE JUDGE

This matter is before the Court on a *sua sponte* review of the record. This cause has been referred to the Undersigned for Report and Recommendation on any dispositive matter pursuant to 28 U.S.C. § 636(b)(1)(B) and S.D. Fla. Admin. Order 2019-2. [ECF No. 2].

On August 10, 2020, the Undersigned Ordered Plaintiff to file an amended complaint by September 6, 2020. [ECF No. 5]. Plaintiff was cautioned that failure to file the amended complaint on time would probably result in dismissal of this case. [*Id.* at 4]. Instead of filing an amended complaint, Plaintiff filed an "Appeal and Objections to Order to Amend Complaint," essentially alleging that his initial complaint was properly pled and that he would not file an amended complaint in compliance with the Court's order. [ECF No. 6].

In light of Plaintiff's objections and his failure to timely file his amended complaint, the Court *sua sponte* extended the time to file an amended complaint on September 10, 2020. [ECF No. 9]. In that order, the Court informed Plaintiff that the amended complaint deadline was now extended until October 9, 2020. [*Id.*]. Plaintiff was informed that failure to file an amended complaint by October 9, 2020, would result in dismissal of the case for failure to prosecute and/or failure to comply with court orders. [*Id.*]. In response, Plaintiff again filed an "appeal" of the order, arguing that he "cannot legally or constitutionally be compelled to file an amended complaint." [ECF No. 11 at 6].

This Court has the inherent authority to govern its proceedings. *See Chambers v. NASCO, Inc.*, 501 U.S. 32, 43 (1991). Such authority includes the power to dismiss a case for failure to prosecute or for failure to comply with a court order under Fed. R. Civ. P. 41(b). *See id. See also Equity Lifestyle Props, Inc. v. Fla. Mowing & Landscape Servs., Inc.*, 556 F.3d 1232, 1240 (11th Cir. 2009) (quoting *Chambers,* 501 U.S. at 43).

"While dismissal is an extraordinary remedy, dismissal upon disregard of an order, especially where the litigant has been forewarned, generally is not an abuse of discretion." *Moon v. Newsome*, 863 F.2d 835, 837 (11th Cir. 1989). Under these circumstances, this case should be dismissed pursuant to the Court's inherent

authority and Fed. R. Civ. P. 41(b) for Plaintiff's failure to comply with the Undersigned's two Orders and for want of prosecution.

Thus, it is **RECOMMENDED** that Plaintiff's Complaint [ECF No. 1] be **DISMISSED** without prejudice pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute and for failure to comply with Court Orders and all that pending motions be **DENIED AS MOOT**.

Objections to this Report may be filed with the District Judge within fourteen days of receipt of a copy of the report. Failure to do so will bar a *de novo* determination by the District Judge of anything in the Report and Recommendation and will bar an attack, on appeal, of the factual findings of the Magistrate Judge. *See* 28 U.S.C. § 636(b)(1)(C); *see also Thomas v. Arn,* 474 U.S. 140, 149 (1985).

SIGNED this 13th day of October, 2020.

UNITED STATES MAGISTRATE JUDGE

cc: **David James Lola**
18001264
Monroe County Jail
Inmate Mail/Parcels
5501 College Road
Key West, FL 33040
PRO SE

Additional material from this filing is available in the Clerk's Office.