

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

LEONARDO ALATORRE,

Plaintiff,

v.

DONALD TRUMP, et al.,

Defendants.

Case No. 18-2713-DDC-JPO

MEMORANDUM AND ORDER

On December 31, 2018, pro se plaintiff Leonardo Alatorre filed a Complaint using the court’s standard form for Civil Complaints. Doc. 1. Plaintiff’s Complaint is difficult to understand. As best the court can discern, plaintiff accuses United States “government officials”—including Donald Trump, Hillary Clinton, Barack Obama, and John Kerry—of discrimination and harassment. *Id.* at 2, 3. Plaintiff contends that defendants have engaged in an “espionage hostile intake game.” *Id.* at 7. And, he alleges, defendants are going “to make a settlement with [plaintiff and] with the honorable ‘Judge Ito’ from California and the one in the Simpson case. And the current Supreme Court Judge Tim Brody and other witnesses like Geraldo Riviera and Governor Arnold Sch[warzenegger].” *Id.*

On January 4, 2019, Magistrate Judge James P. O’Hara issued a Report and Recommendation, recommending that the district court dismiss this lawsuit under 28 U.S.C. § 1915(e)(2)(B)(ii) because it fails to state a claim upon which relief may be granted. Doc. 5. Judge O’Hara noted in his Report and Recommendation that plaintiff may serve and file objections to the Report and Recommendation under 28 U.S.C. § 636(b)(1) and Fed. R. Civ. P. 72, within 14 days after service of the Report and Recommendation. Doc. 5 at 4. Also, Judge

O’Hara advised plaintiff that failing to make a timely objection to the Report and Recommendation waives any right to appellate review of the proposed findings of fact, conclusions of law, or recommended disposition. *See id.* (explaining that “[i]f plaintiff does not timely file his objections, no court will allow appellate review”). The Clerk sent a copy of the Report and Recommendation to plaintiff by regular and certified mail. *See* Docket Entry for Doc. 5 (“Mailed to pro se party LEONARDO ALATORRE by regular and certified mail; Certified Tracking Number: 70161970000113655651.”).

Service of the Report and Recommendation was accomplished by “mailing it to [plaintiff’s] last known address—in which event service [was] complete upon mailing.” Fed. R. Civ. P. 5(b)(2)(C); *ReVoal v. Brownback*, No. 14-4076, 2014 WL 5321093, at *1 (D. Kan. Oct. 16, 2014). “Mailing” occurred on January 4, 2019, when the Clerk mailed the Report and Recommendation to plaintiff. *See* Doc. 5. Thus, the time for plaintiff to file objections to the Report and Recommendation expired on January 18, 2019.

To date, plaintiff has filed no objection to Judge O’Hara’s Report and Recommendation, nor has he asked to extend the time to file an objection. Because plaintiff has filed no objection to the Report and Recommendation within the time prescribed, and he has sought no extension of time to file an objection, the court can accept, adopt, and affirm the Report and Recommendation in its entirety. *See Summers v. Utah*, 927 F.2d 1165, 1167 (10th Cir. 1991) (“In the absence of timely objection, the district court may review a magistrate’s report under any standard it deems appropriate.”).

The court also has reviewed Judge O’Hara’s Report and Recommendation. And the court agrees with his conclusion. Plaintiff’s Complaint, even when given the most liberal construction, fails to state a plausible claim for relief. The court thus adopts Judge O’Hara’s recommendation

that the district court dismiss this lawsuit under 28 U.S.C. § 1915(e)(2)(B)(ii) because it fails to state a claim on which relief may be granted.

IT IS THEREFORE ORDERED THAT, after reviewing the file *de novo*, the Report and Recommendation issued by United States Magistrate Judge James P. O’Hara on January 4, 2019, (Doc. 5) is **ACCEPTED, ADOPTED, and AFFIRMED**. The court dismisses this action under 28 U.S.C. § 1915(e)(2)(B)(ii).

IT IS SO ORDERED.

Dated this 23rd day of January, 2019, at Kansas City, Kansas.

s/ Daniel D. Crabtree
Daniel D. Crabtree
United States District Judge