

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

CHRISTIE DENISE SPARKS,

Plaintiff,

v.

CASE NO. 3:17-cv-979-J-32MCR

CHARLES KEEN,

Defendant.

_____ /

REPORT AND RECOMMENDATION¹

THIS CAUSE is before the Court on the Court's Order dated November 28, 2017. (Doc. 7).

On September 20, 2017, Plaintiff filed a Complaint and an Application to Proceed in District Court Without Prepaying Fees or Costs. (Docs. 1, 2.) On November 2, 2017, the Court entered an Order taking under advisement Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs (Doc. 2), and directing Plaintiff to file an amended complaint and an amended, notarized application no later than November 22, 2017. (See Doc. 4.)

¹ "Within 14 days after being served with a copy of [this Report and Recommendation], a party may serve and file specific written objections to the proposed findings and recommendations." Fed.R.Civ.P. 72(b)(2). "A party may respond to another party's objections within 14 days after being served with a copy." *Id.* A party's failure to serve and file specific objections to the proposed findings and recommendations alters the scope of review by the District Judge and the United States Court of Appeals for the Eleventh Circuit, including waiver of the right to challenge anything to which no specific objection was made. See Fed.R.Civ.P. 72(b)(3); 28 U.S.C. § 636(b)(1)(B); 11th Cir. R. 3-1; M.D. Fla. R. 6.02.

The Order provided: “Failure to comply with this Order will likely result in a recommendation to the District Judge that the Application be denied and/or that the case be dismissed for failure to state a claim on which relief may be granted and/or want of prosecution.” (*Id.* at 7.)

On November 22, 2017, Plaintiff filed an Amended Complaint, but did not file an amended, notarized application and did not pay the appropriate filing fee. (Doc. 6.) Noting Plaintiff’s failure to comply with the Court’s November 2, 2017 Order, on November 28, 2017, the Court entered an Order directing Plaintiff to either file an amended, notarized application, or pay the appropriate filing fee, or show cause in writing why the undersigned should not recommend to the District Judge that the Application be denied and that the case be dismissed for failure to comply with the Court’s Order and/or lack of prosecution. (Doc. 7 at 2.) Plaintiff was warned that “[f]ailure to comply with this Order will likely result in a recommendation that the application be denied and that the case be dismissed without further notice.” (*Id.*)

To date, Plaintiff has not filed an amended, notarized application as directed by two Court Orders, she has not filed a response to the Order to Show Cause, she has not sought an extension of time to comply with the Court’s Orders, and she has not paid the filing fee. Further, Plaintiff’s Amended Complaint does not seem to cure the deficiencies outlined in the Court’s earlier Order. Therefore, this action is subject to dismissal for failure to state a claim on

which relief may be granted, lack of jurisdiction, and lack of prosecution. See 28 U.S.C. § 1915(e)(2)(B)(ii); Fed.R.Civ.P. 12(h)(3); M.D. Fla. R. 3.10(a).

Accordingly, it is respectfully **RECOMMENDED** that the Application (**Doc. 2**) be **DENIED**, this case be **DISMISSED without prejudice**, and the Clerk of Court be directed to terminate any pending motions and close the file.

DONE AND ENTERED at Jacksonville, Florida, on December 19, 2017.



MONTE C. RICHARDSON
UNITED STATES MAGISTRATE JUDGE

Copies to:

The Honorable Timothy J. Corrigan
United States District Judge

Pro Se Plaintiff