

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
JACKSONVILLE DIVISION

LATRAKA FAIRLEY,

Plaintiff,

v.

CASE NO. 3:24-cv-763-MMH-MCR

DEPARTMENT OF CHILDREN  
AND FAMILIES,

Defendant.

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**REPORT AND RECOMMENDATION**<sup>1</sup>

**THIS CAUSE** is before the Court on *pro se* Plaintiff's Motion to Proceed *In Forma Pauperis* ("Motion") (Doc. 8). For the reasons set forth herein, the undersigned respectfully **RECOMMENDS** that the Motion (Doc. 8) be **DENIED**, and that this case be **DISMISSED** for failure to state a claim on which relief may be granted.

**I. Background**

Plaintiff filed this action without paying the required filing fee or filing

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<sup>1</sup> "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.

a Motion to Proceed *In Forma Pauperis* (“IFP Motion”). The Court ordered Plaintiff to do one of those things, but Plaintiff failed to do so. (Doc. 4.) The Court then ordered Plaintiff to show cause why the case should not be dismissed. (Doc. 5.) Plaintiff then filed an IFP Motion (Doc. 6), which was denied (Doc. 7). Plaintiff then filed the instant Motion (Doc. 8.)

The Court took the Motion (Doc. 8) under advisement and directed Plaintiff to file an amended complaint in accordance with that Order. (Doc. 13.) Plaintiff failed to do so and another Order to Show Cause was issued. (Doc. 14.) This Order stated that Plaintiff shall comply with the previous Order (Doc. 13), i.e., file an amended complaint, and show cause why the case should not be dismissed for failure to prosecute. (Doc. 14.) Plaintiff was cautioned that **“If Plaintiff fails to do so, the undersigned will recommend that the District Judge deny the IFP Motion and dismiss this action.”**

Plaintiff then filed two letters (Docs. 15 & 16).<sup>2</sup> The first letter, which the Court construes as a response to the Order to Show Cause, states that Plaintiff did not receive some of the Court’s prior orders.<sup>3</sup> (Doc. 15.)

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<sup>2</sup> Although it is inappropriate for Plaintiff to communicate with the Court in letter form, the undersigned will address the letters given Plaintiff’s *pro se* status.

<sup>3</sup> Plaintiff is required to keep updated contact information on file with the Clerk’s office, which she apparently failed to do for a period of time.

However, there is no indication that Plaintiff did not receive the Order requiring Plaintiff to file an amended complaint and to show cause why the case should not be dismissed. (Docs. 13 & 15.) The second letter is not an amended complaint, but rather a letter essentially arguing that the initial Complaint sufficiently states a claim. (Doc. 16.) That letter also purports to contain additional information regarding the incident leading to this action. (*Id.*) Notably, the Court’s prior Order (Doc. 13) stated: “[A]ny amended complaint should be filed as a single document and include all relevant information. The Court will not consider other filings when addressing the amended complaint.” (*Id.* at 5 n.3) (emphasis added).

## II. Standard

Pursuant to 28 U.S.C. § 1915(a)(1), the Court may allow a plaintiff to proceed without prepayment of fees or costs where the plaintiff has demonstrated through the filing of an affidavit that she is “unable to pay such fees or give security therefor.” 28 U.S.C. § 1915(a)(1). When such a motion is filed, the Court is also obligated to review the case pursuant to 28 U.S.C. § 1915(e)(2) and to dismiss the case if it determines that the action “(i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief.” 28 U.S.C. § 1915(e)(2)(B). The Court must also dismiss *sua*

*sponte* an action if, at any time, it determines that it lacks subject matter jurisdiction. Fed. R. Civ. P. 12(h)(3).

To avoid a dismissal, the “complaint must contain sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (citing *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). “Labels and conclusions” or “a formulaic recitation of the elements of a cause of action” that amount to “naked assertions” will not do. *Id.*

While pleadings submitted by a *pro se* plaintiff “are held to a less stringent standard than pleadings drafted by attorneys and will, therefore, be liberally construed,” *Tannenbaum v. United States*, 148 F.3d 1262, 1263 (11th Cir. 1998) (per curiam), “[a] [*pro se*] complaint that fails to articulate claims with sufficient clarity to allow the defendant to frame a responsive pleading constitutes a ‘shotgun pleading’ . . . prohibited by Rule 8(a)(2).” *Lampkin-Asam v. Volusia Cty. Sch. Bd.*, 261 F. App’x 274, 277 (11th Cir. 2008). As such, even *pro se* complaints that are “disjointed, repetitive, disorganized and barely comprehensible” may be dismissed. *Id.* at 276.

### **III. Analysis**

The Court previously stated that even liberally construed, Plaintiff’s

Complaint does not meet the above requirements and is otherwise deficient. (Doc. 13.) First, it is unclear who Plaintiff intends to sue. In the caption, she lists the Department of Children and Families (“DCF”) as the only Defendant. (Doc. 1 at 1.) However, in the Complaint form itself, she lists Julie Norton as both the Plaintiff and a Defendant. (*Id.* at 2.) She then lists an unidentified “Cps agent,” the Jacksonville Sheriff’s Department, and the Bradford County Sheriff’s Office as additional Defendants. (*Id.*) The Court noted that all Defendants must be named in the caption. (Doc. 13.)

Next, the Court stated that it is unclear what claims Plaintiff is attempting to bring against each Defendant. (*Id.*) The Complaint alleges violations pursuant to 42 U.S.C. § 1983, such as violations of the 14th Amendment and unspecified “civil rights.” (Doc. 1 at 3.) It goes on to state that “The female EMT who called cps called me and my husband a racial slur.” (*Id.* at 4.) The Complaint then goes into a confusing narrative of how EMTs were called to Plaintiff’s home to check on her child, but that she was offended by them, and was eventually held at gunpoint and threatened with a tazer. (*Id.*) She goes on to allege that she was held hostage for four hours while Defendants procured a warrant, that her door was kicked in, that her house was destroyed, and that her child was “removed.” (*Id.*)

Plaintiff also alleges that Defendants falsified reports in order to discriminate against her, and that this caused her emotional distress. (*Id.* at 5.) However, in the relief sought section, Plaintiff states “I would like justice to be served and this matter [to] be investigated properly and handled in a [sic] unbiased [sic] manner and fairly.” (*Id.*) Thus, it is unclear what relief Plaintiff seeks and whether any such relief is available in this Court.

In short, the Court noted that these sparse, seemingly random allegations do not plausibly state any claim for relief against any Defendant. (Doc. 13.) Making matters more confusing, Plaintiff also filed a “Notice” purporting to cancel any contracts with DCF for violating her 1st, 4th, 6th, and 14th Amendment rights, and she demands the immediate return of her children. (Doc. 9.)

Despite the aforementioned deficiencies, the Court provided Plaintiff with an opportunity to file a single amended complaint that cured the deficiencies noted in that Order, if possible. (Doc. 13.) Plaintiff was cautioned that failure to do so would likely result in a recommendation that the District Judge deny the Motion and dismiss this case.

Plaintiff has not filed an amended complaint, and the time to do so has passed. (*Id.* at 5.) The letters she filed instead do not cure the deficiencies

set forth above. Rather, the letters essentially argue that Plaintiff has in fact stated a claim, and provide seemingly random attachments with no context that allegedly support her claims. (*See* Docs. 15 & 16.) In sum, even liberally construing the letters, along with the initial Complaint, the undersigned recommends that Plaintiff has failed to state a claim on which relief may be granted.

#### **IV. Conclusion**

Accordingly, it is respectfully **RECOMMENDED** that:

1. The Motion (**Doc. 8**) be **DENIED**.
2. This case be **DISMISSED** for failure state a claim on which relief may be granted.
3. The Clerk of Court be directed to terminate any pending motions and deadlines and close the file.

**DONE AND ENTERED** in Jacksonville, Florida, on December 27, 2024.

  
MONTE C. RICHARDSON  
UNITED STATES MAGISTRATE JUDGE

Copies to:

The Honorable Marcia Morales Howard  
Chief United States District Judge

*Pro se* Plaintiff