

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

JAY HARRIS,
Plaintiff,

v.

CASE NO. 8:24-cv-2459-TPB-TGW

HILLSBOROUGH COUNTY,
Defendant.

REPORT AND RECOMMENDATION

The plaintiff filed an affidavit of indigency pursuant to 28 U.S.C. 1915, seeking a waiver of the filing fee for his lawsuit which purportedly alleges violations of Title II of the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act of 1973 (Doc. 1). The plaintiff has submitted a complaint (Doc. 1) and an affidavit of indigency (Doc. 2). Because the complaint fails to state a cognizable claim and divide the claims into separate counts, I recommend that the complaint be dismissed without prejudice.

Under 28 U.S.C. 1915(a)(1), the court may authorize the filing of a civil lawsuit without prepayment of fees if the plaintiff submits an affidavit that includes a statement of all assets showing an inability to pay the filing fee and a statement of the nature of the action which shows that he

is entitled to redress. Even if the plaintiff proves indigency, the case shall be dismissed if the action is frivolous or malicious or fails to state a claim upon which relief may be granted. 28 U.S.C. 1915(e)(2)(B)(i), (ii). To state a claim for relief, the complaint must allege facts from which the court may “draw the reasonable inference that the defendant is liable for the misconduct alleged.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009).

The Court liberally construes pro se pleadings. Tannenbaum v. United States, 148 F.3d 1262, 1263 (11th Cir. 1998). However, a pro se pleading “must still comply with procedural rules governing the proper form of pleadings.” Hopkins v. St. Lucie Cnty. Sch. Bd., 399 Fed. Appx. 563, 565 (11th Cir. 2010). Thus, a court will not “rewrite an otherwise deficient pleading in order to sustain an action.” Campbell v. Air Jamaica Ltd., 760 F.3d 1165, 1169 (11th Cir. 2014) (citation omitted).

The plaintiff’s complaint is procedurally and substantively deficient. See Watts v. Florida International University, 495 F.3d 1289, 1295-96 (11th Cir. 2007). First, it does not comply with the Federal Rules of Civil Procedure. Specifically, Rule 10(b), F.R.Civ.P., requires the plaintiff to plead discrete claims in separate counts and identify in separate numbered paragraphs the pertinent facts supporting that claim. See McNeil v. United States, 508 U.S. 106, 113 (1993) (pro se litigants must comply with

procedural rules that govern pleadings). Here, the plaintiff fails to detail each count in the complaint.

Additionally, the complaint does not comply with F.R.Civ. P. Rule 8(a)(2), which requires that the pleading be “a short and plain statement of the claim showing that the pleader is entitled to relief.” The complaint does not state a claim for relief. For example, the plaintiff alleges that he was “denied effective communication” (Doc. 1, p. 2) due to the absence or failure of qualified interpreters. However, he needs more detail to properly state a claim.

When a complaint is dismissed as deficient, a pro se plaintiff must generally be given one chance to amend his complaint. Silva v. Bieluch, 351 F.3d 1045, 1048-49 (11th Cir. 2003). Consequently, this plaintiff should be given at least one opportunity to allege a viable claim. Therefore, I recommend that the complaint be dismissed without prejudice.

Respectfully submitted,



THOMAS G. WILSON
UNITED STATES MAGISTRATE JUDGE

DATED: December 20, 2024.

NOTICE TO PARTIES

The parties have fourteen days from the date they are served a copy of this report to file written objections to this report's proposed findings and recommendations or to seek an extension of the fourteen-day deadline to file written objections. 28 U.S.C. 636(b)(1)(C). Under 28 U.S.C. 636(b)(1), a party's failure to object to this report's proposed findings and recommendations waives that party's right to challenge on appeal the district court's order adopting this report's unobjected-to factual findings and legal conclusions.