

UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF
FLORIDA, TAMPA DIVISION

Zachery Pernell Hicks v. The Home Depot Store #0256

Hicks · No. 8:25-cv-2944-TPB-NHA · Decided January 8, 2026

SUMMARY

The United States District Court for the Middle District of Florida adopts a magistrate judge's report and recommendation. The court denies Plaintiff's motion to proceed in forma pauperis without prejudice and dismisses the complaint without prejudice, allowing Plaintiff to file an amended complaint and amended in forma pauperis motion by February 6, 2026.

CASE DETAILS

COURT	United States District Court for the Middle District of Florida, Tampa Division
WRITING FOR THE COURT	Thomas P. Barber
JURISDICTION	United States District Court for the Middle District of Florida, Tampa Division
DECIDED	January 8, 2026
DOCKET	8:25-cv-2944-TPB-NHA
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed and adopted a magistrate judge's report and recommendation after no party filed an objection.
STANDARD OF REVIEW	When no objection is filed to a magistrate judge's report and recommendation, the district court reviews the report and recommendation for clear error; portions to which an objection is made receive de novo review.
PRECEDENTIAL VALUE	unpublished

TOPICS

pleadings

civil procedure

PRACTICE AREAS

civil procedure

in forma pauperis

QUESTIONS PRESENTED

1. What standard of review applies when no party objects to a magistrate judge's report and recommendation?
2. Whether the magistrate judge's recommendation to deny the motion to proceed in forma pauperis and dismiss the complaint without prejudice should be adopted.

HOLDINGS

1. When no objection is filed to a magistrate judge's report and recommendation, the district court reviews the recommendation for clear error rather than conducting de novo review.
2. The report and recommendation was affirmed, adopted, and incorporated by reference; the plaintiff's motion to proceed in forma pauperis was denied without prejudice, and the complaint was dismissed without prejudice subject to the filing of amended documents.

KEY QUOTATIONS

“When no objection is filed, a court reviews the report and recommendation for clear error.” (Page 1)

“The complaint (Doc. 1) is DISMISSED WITHOUT PREJUDICE, subject to the right of Plaintiff to file an amended complaint and amended motion to proceed in forma pauperis on or before February 6, 2026.” (Page 2)

FACTUAL BACKGROUND

The plaintiff filed a complaint and a motion to proceed in forma pauperis. The magistrate judge recommended that the in forma pauperis motion be denied and that the complaint be dismissed without prejudice, subject to the filing of amended documents. No party objected to the report and recommendation.

PROCEDURAL HISTORY

Magistrate Judge Natalie Hirt Adams recommended denying Plaintiff's motion to proceed in forma pauperis and dismissing the complaint without prejudice, while permitting Plaintiff to file an amended complaint and amended in forma pauperis motion. No objections were filed before the deadline. The district court reviewed the report and recommendation for clear error, adopted and incorporated it, denied the motion without prejudice, and dismissed the complaint without prejudice subject to amendment by February 6, 2026.

DISPOSITION

dismissed

CASES CITED

- *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983)
- *Williams v. Wainwright*, 681 F.2d 732 (11th Cir. 1982)
- *Macort v. Prem, Inc.*, 208 F. App'x 781, 784 (11th Cir. 2006)

- *Nettles v. Wainwright*, 677 F.2d 404, 409 (5th Cir. 1982)
- *Auto. Alignment & Body Serv., Inc. v. State Farm Mut. Auto. Ins. Co.*, 953 F.3d 707, 719-20 (11th Cir. 2020)

OPINION

UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF FLORIDA TAMPA DIVISION
 ZACHERY PERNELL HICKS, Plaintiff, v. Case No. 8:25-cv-2944-TPB-NHA THE HOME
 DEPOT STORE #0256, Defendant. _____/ ORDER
 ADOPTING REPORT AND RECOMMENDATION This matter is before the Court on
 consideration of the report and recommendation of Natalie Hirt Adams, United States Magistrate
 Judge, entered on December 18, 2025.

(Doc. 7). Judge Adams recommends that Plaintiff's motion to proceed in forma pauperis (Doc. 4) be denied and Plaintiff's complaint (Doc. 1) be dismissed without prejudice, subject to the right of Plaintiff to file an amended complaint and amended motion to proceed in forma pauperis. No party has objected, and the time to object has expired.

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject, or modify the magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983); *Williams v. Wainwright*, Page 1 of 3 681 F.2d 732 (11th Cir. 1982). A district court must "make a de novo determination of those portions of the [report and recommendation] to which an objection is made." 28 U.S.C. § 636(b)(1)(C).

When no objection is filed, a court reviews the report and recommendation for clear error. *Macort v. Prem, Inc.*, 208 F. App'x 781, 784 (11th Cir. 2006); *Nettles v. Wainwright*, 677 F.2d 404, 409 (5th Cir. 1982). Upon due consideration of the record, including Judge Adams's well-reasoned report and recommendation, the Court adopts the report and recommendation.

Consequently, Plaintiff's motion to proceed in forma pauperis is denied without prejudice, and Plaintiff's complaint is dismissed without prejudice. Accordingly, it is ORDERED, ADJUDGED, and DECREED: (1) The report and recommendation (Doc. 7) is AFFIRMED and ADOPTED and INCORPORATED BY REFERENCE into this Order for all purposes, including appellate review.

(2) Plaintiff's motion to proceed in forma pauperis is DENIED without prejudice. Page 2 of 3 (3) The complaint (Doc. 1) is DISMISSED WITHOUT PREJUDICE, subject to the right of Plaintiff to file an amended complaint and amended motion to proceed in forma pauperis on or before February 6, 2026. (A) Failure to file an amended complaint as directed will result in this Order becoming a final judgment.

See *Auto. Alignment & Body Serv., Inc. v. State Farm Mut. Auto. Ins. Co.*, 953 F.3d 707, 719-20 (11th Cir. 2020). Failure to file an amended motion to proceed in forma pauperis may result in this case being dismissed without prejudice without further notice. DONE and ORDERED in

Chambers, in Tampa, Florida, this 8th day of January, 2026. NAP. GA. TOMBARBER UNITED STATES DISTRICT JUDGE Page 3 of 3

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