

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

April Berra v. State of Florida, et al.

Berra · No. 8:25-cv-2019-MSS-SPF · Decided January 6, 2026

SUMMARY

The United States District Court for the Middle District of Florida adopts a magistrate judge's Report and Recommendation and denies the plaintiff's motions to proceed in forma pauperis and for appointment of counsel. The court dismisses the complaint without prejudice because the plaintiff had initiated a substantially identical action and permits her to file an amended complaint and amended in forma pauperis motion within 21 days. Failure to do so will result in dismissal with prejudice.

OPINION

UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF FLORIDA TAMPA DIVISION
APRIL BERRA, Plaintiff, v. Case No: 8:25-cv-2019-MSS-SPF STATE OF FLORIDA, et al.,
Defendants. ORDER THIS CAUSE comes before the Court for consideration of Plaintiff's
Application to Proceed in District Court Without Prepaying Fees or Costs, (Dkt. 2), which the
Court construes as a motion to proceed in forma pauperis.

Also before the Court is Plaintiff's Motion for Appointment of Counsel, (Dkt. 3), and Plaintiff's
Complaint. (Dkt. 1) On October 17, 2025, United States Magistrate Judge Sean P. Flynn issued a
Report and Recommendation, (Dkt. 8), which recommended Plaintiff's motions be denied and
Plaintiff's Complaint be dismissed without prejudice. Plaintiff has not objected to the Report and
Recommendation, and the deadline for doing so has passed.

Upon consideration of all relevant filings, case law, and being otherwise fully advised, the Court
DENIES Plaintiff's Motion to Proceed In Forma Pauperis, DENIES Plaintiff's Motion to Appoint
Counsel, and DISMISSES the Complaint without prejudice.

In the Eleventh Circuit, a district judge may accept, reject, or modify the magistrate judge's report
and recommendation after conducting a careful and complete review of the findings and
recommendations. 28 U.S.C. § 636(b)(1); *Williams v. Wainwright*, 681 F.2d 732, 732 (11th Cir.
1982). A district judge "shall make a de novo determination of those portions of the report or
specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)
(1)(C).

This requires that the district judge "give fresh consideration to those issues to which specific
objection has been made by a party." *Jeffrey S. v. State Bd. of Educ.*, 896 F.2d 507, 512 (11th

Cir.1990) (quoting H.R. 1609, 94th Cong. § 2 (1976)). Absent specific objections, there is no requirement that a district judge review factual findings de novo, *Garvey v. Vaughn*, 993 F.2d 776, 779 n.9 (11th Cir.

1993), and the court may accept, reject, or modify, in whole or in part, the findings and recommendations. 28 U.S.C. § 636(b)(1)(C). The district judge reviews legal conclusions de novo, even in the absence of an objection. See *Cooper-Houston v. Southern Ry.*, 37 F.3d 603, 604 (11th Cir. 1994). Upon consideration of the Report and Recommendation, in conjunction with an independent examination of the file, the Court is of the opinion the Report and Recommendation should be adopted, confirmed, and approved in all respects.

In addition, it has come to the Court's attention that Plaintiff has initiated two separate actions with nearly identical complaints. See *Berra v. State of Florida et al.*, No. 8:25-cv-2519-MSS-TGW (M.D. Fla.) ("Berra 2").¹ It is improper to have two separate, identical proceedings pending concurrently.

Thus, to the extent Plaintiff intends to proceed with the claims raised in this case or the Berra 2 case, she must proceed in this case. Accordingly, it is ORDERED that: 1. The Report and Recommendation, (Dkt. 8), is CONFIRMED and ADOPTED as part of this Order. 2. Plaintiff's Motion to Proceed In Forma Pauperis, (Dkt. 2), is DENIED. 3. Plaintiff's Motion for Appointment of Counsel, (Dkt.

3), is DENIED. 4. The Complaint, (Dkt. 1), is DISMISSED WITHOUT PREJUDICE. Plaintiff may file an amended complaint within TWENTY-ONE DAYS of the date of this Order. If Plaintiff files an amended complaint, Plaintiff shall also file an amended motion to proceed in forma pauperis. If Plaintiff fails to file an amended complaint with an amended motion to proceed in forma pauperis within the 21-DAY PERIOD, the dismissal shall be WITH PREJUDICE.

¹ The Court notes that the docket in the Berra 2 case reflects several more defendants than this case. While these additional defendants are referenced in the body of the complaint in both cases, Plaintiff has not identified the additional entities and individuals in the caption of the complaint in either case.

Thus, despite this distinction reflected on the docket, both cases are against the same nineteen defendants. See Fed. R. Civ. P. 10(a) ("The title of the complaint must name all the parties[.]"). Moreover, the docket in this case correctly reflects the defendants that were actually named in the caption of Plaintiff's complaint. 5.

The Clerk is DIRECTED to mail a copy of this Order to the address Plaintiff provided in this case and a second copy of this Order to the address Plaintiff provided in the Berra 2 Case. DONE and ORDERED in Tampa, Florida, this 6th day of January 2026. MARYS. SCRIVEN UNITED STATES DISTRICT JUDGE Copies furnished to: Counsel of Record Any Unrepresented Person

