

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.

CASE DETAILS

COURT	United States District Court for the Middle District of Florida, Tampa Division
WRITING FOR THE COURT	Mary S. Scriven
JURISDICTION	United States District Court for the Middle District of Florida, Tampa Division
DECIDED	January 6, 2026
DOCKET	8:25-cv-2019-MSS-SPF
DISPOSITION	dismissed
PROCEDURAL POSTURE	The district court reviewed a magistrate judge's Report and Recommendation recommending denial of in forma pauperis status and appointment of counsel and dismissal of the complaint without prejudice. No objection was filed.
STANDARD OF REVIEW	The district judge may accept, reject, or modify a magistrate judge's report and recommendation after careful and complete review. Specific objections require de novo review of the challenged portions; absent specific objections, factual findings need not be reviewed de novo, although legal conclusions are reviewed de novo.
PRECEDENTIAL VALUE	unpublished
PARTIES	April Berra v. State of Florida, et al.

TOPICS

civil procedure

pleadings

motions to dismiss

motion to amend

PRACTICE AREAS

civil procedure

federal courts

QUESTIONS PRESENTED

1. What standard governs the district court's review of a magistrate judge's Report and Recommendation when no objection is filed?
2. Whether the Report and Recommendation denying in forma pauperis status and appointment of counsel and recommending dismissal without prejudice should be adopted.
3. Whether plaintiff may maintain two separate actions involving nearly identical complaints concurrently.

HOLDINGS

1. When no specific objection is filed, the district court is not required to review factual findings de novo, but it may accept, reject, or modify the magistrate judge's findings and recommendations; legal conclusions are reviewed de novo even without an objection.
2. The court adopted and confirmed the Report and Recommendation, denied plaintiff's motion to proceed in forma pauperis and motion for appointment of counsel, and dismissed the complaint without prejudice.
3. Plaintiff may not proceed concurrently in two separate actions involving nearly identical complaints; any claims plaintiff intends to pursue must proceed in this case.

KEY QUOTATIONS

“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.””

“This requires that the district judge “give fresh consideration to those issues to which specific objection has been made by a party.””

FACTUAL BACKGROUND

Plaintiff filed this action along with an application to proceed in forma pauperis and a motion for appointment of counsel. Plaintiff also initiated a second action containing nearly identical complaints. The court noted that maintaining two separate, identical proceedings concurrently was improper and directed that any claims be pursued in this case rather than both cases.

PROCEDURAL HISTORY

Plaintiff filed a complaint, an application to proceed without prepaying fees or costs, and a motion for appointment of counsel. Magistrate Judge Sean P. Flynn recommended denying the motions and dismissing the complaint without prejudice. After the objection deadline passed without objection, the district court

independently reviewed the file, adopted and confirmed the Report and Recommendation, denied both motions, and dismissed the complaint without prejudice, allowing 21 days to amend.

DISPOSITION

dismissed

CASES CITED

- Williams v. Wainwright, 681 F.2d 732, 732 (11th Cir. 1982)
- Jeffrey S. v. State Bd. of Educ., 896 F.2d 507, 512 (11th Cir. 1990)
- Garvey v. Vaughn, 993 F.2d 776, 779 n.9 (11th Cir. 1993)
- Cooper-Houston v. Southern Ry., 37 F.3d 603, 604 (11th Cir. 1994)

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