

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

CAROLE FLORANCE PREVOST
CESAIRE,

Plaintiff,

v.

Case No: 2:19-cv-284-FtM-29NPM

DEPARTMENT OF CHILDREN AND
FAMILIES,

Defendant.

OPINION AND ORDER

This matter is before the Court on consideration of the Magistrate Judge's Report and Recommendation (Doc. #17), filed July 19, 2019, recommending that the Affidavit of Indigency (Doc. #15), construed as a motion a to proceed *in forma pauperis*, be denied and the case dismissed. Plaintiff filed Objections (Doc. #18) in response on August 1, 2019.

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); United States v. Powell, 628 F.3d 1254, 1256 (11th Cir. 2010). 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). See also United States v. Farias-Gonzalez, 556 F.3d

1181, 1184 n.1 (11th Cir. 2009). 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. of Ga., 896 F.2d 507, 512 (11th Cir. 1990)(quoting H.R. 1609, 94th Cong., § 2 (1976)). The district judge reviews legal conclusions *de novo*, even in the absence of an objection. See Cooper-Houston v. Southern Ry. Co., 37 F.3d 603, 604 (11th Cir. 1994).

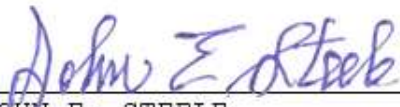
Plaintiff was provided an opportunity to file an Amended Complaint (Doc. #9) and a (Second) Amended Complaint (Doc. #14) before the Magistrate Judge recommended finding that plaintiff had failed to state a claim that complied with Fed. R. Civ. P. 8 and that plaintiff had not provided a short and plain statement as to the Court's jurisdiction. Plaintiff objects that she sought to proceed *in forma pauperis* due to her financial situation, and because defendant the Department of Children and Families has engaged in restricting her access to work, freedom, school, and other public assistance by means of human trafficking and/or stalking. None of these objections support a finding of federal jurisdiction over the case, nor contradict the finding that no claim was stated in the pleading. After a careful and complete review of the findings and recommendations, as well as the record in this case, the Court accepts the Report and Recommendation and will overrule the objections.

Accordingly, it is now

ORDERED:

1. The Report and Recommendation (Doc. #17) is hereby **adopted** and the findings incorporated herein.
2. Plaintiff's Objections are **overruled**.
3. Plaintiff's Affidavit of Indigency (Doc. #15), construed as a motion a to proceed in forma pauperis, is **denied**.
4. The case is **dismissed** without prejudice. The Clerk shall enter judgment accordingly, terminate all pending deadlines and motions, and close the file.

DONE and ORDERED at Fort Myers, Florida, this 14th day of August, 2019.



JOHN E. STEELE
SENIOR UNITED STATES DISTRICT JUDGE

Copies:
All Parties of Record