

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

TRACY BARBER,

Plaintiff,

v.

Case No. 5:16-cv-139-Oc-37PRL

FEDERAL BUREAU OF
INVESTIGATION; and STATE OF
FLORIDA,

Defendants.

ORDER

This cause is before the Court on the following:

1. Plaintiff's Affidavit of Indigency (Doc. 9), filed April 5, 2016;
2. Plaintiff's Second Amended Complaint (Doc. 11), filed June 13, 2016; and
3. U.S. Magistrate Judge Philip R. Lammens's Report and Recommendation (Doc. 12), filed July 5, 2016.

In the instant action, *pro se* Plaintiff Tracy Barber seeks to proceed *in forma pauperis* against the Federal Bureau of Investigation ("**FBI**") and the State of Florida ("**the State**"). (See Doc. 11 ("**Complaint**").) Though Plaintiff is currently on his third iteration of the Complaint, neither the Undersigned nor U.S. Magistrate Judge Philip R. Lammens has been able to discern the factual basis for Plaintiff's suit. (See Doc. 12, pp. 5–6.) Indeed, from a practical standpoint, the Complaint is simply incomprehensible. Moreover, despite prior instruction from the Court (see Docs. 4, 10), Plaintiff's Complaint remains non-compliant with the pleading requirements set forth in the Federal Rules of Civil Procedure.

Unsurprisingly, Magistrate Judge Lammens recommends that the Court deny Plaintiff's motion to proceed *in forma pauperis* (Doc. 9) and dismiss the operative Complaint. (Doc. 12 ("R&R").) Specifically, the R&R concludes that: (1) the Complaint fails to comply with Rules 8 and 10 of the Federal Rules of Civil Procedure; (2) the Complaint "lacks even a simple narrative explaining what allegedly happened to Plaintiff"; (3) the State is immune from suit; and (4) "it is unclear to what extent—if any—that Plaintiff can proceed against the FBI." (*Id.* at 5–6.) Plaintiff did not object to the R&R, and the time for filing objections has expired.

Having independently reviewed the R&R for fairness and in the absence of any objection, the Court agrees with Magistrate Judge Lammens and adopts the R&R in its entirety. See 28 U.S.C. § 636(b)(1) (suggesting that a *de novo* review is only required when a party objects to the proposed findings and recommendations). Even construing the Complaint liberally, a review of the filings in this action reveals that Plaintiff has made no meaningful attempt to follow the Court's directives with respect to his pleading deficiencies. As such, the Court finds that further amendment would be futile and that the Complaint is due to be dismissed with prejudice.

Accordingly, it is hereby **ORDERED AND ADJUDGED**:

1. U.S. Magistrate Judge Philip R. Lammens's Report and Recommendation (Doc. 12) is **ADOPTED** and **CONFIRMED** and made a part of this Order.
2. Plaintiff's Affidavit of Indigency (Doc. 9), which the Court construes as a Motion to Proceed *in Forma Pauperis*, is **DENIED**.
3. Plaintiff's Second Amended Complaint (Doc. 11) is **DISMISSED WITH PREJUDICE**.

4. The Clerk is **DIRECTED** to close the file.

DONE AND ORDERED in Chambers in Orlando, Florida, on July 27, 2016.




ROY B. DALTON JR.
United States District Judge

Copies:

Counsel of Record