

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

TRACY BARBER, *pro se*,

Plaintiff(s),

v.

Case No: 8:10-CV-1113-T-30EAJ

STATE OF FLORIDA,

Defendant(s).

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**ORDER**

**THIS CAUSE** came on for consideration upon the Report and Recommendation submitted by Magistrate Judge Elizabeth A. Jenkins (Dkt. #9). The Court notes that neither party filed written objections to the Report and Recommendation and the time for filing such objections has elapsed.

After careful consideration of the Report and Recommendation of the Magistrate Judge in conjunction with an independent examination of the file, the Court is of the opinion that the Magistrate Judge's Report and Recommendation should be adopted, confirmed, and approved in all respects.

**ACCORDINGLY**, it is therefore, **ORDERED AND ADJUDGED**:

1. The Report and Recommendation (Dkt. #9) of the Magistrate Judge is adopted, confirmed, and approved in all respects and is made a part of this order for all purposes,

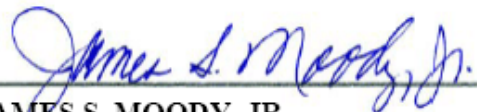
including appellate review.

2. Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs (Dkt. #8) is DENIED.

3. Plaintiff's Second Amended Complaint (Dkt. #7) is DISMISSED without prejudice for failure to state a claim.

4. Plaintiff has twenty (20) days from the date of this Order within which to file a Third Amended Complaint, should Plaintiff wish to do so. Failure to file a Third Amended Complaint within the time period specified shall result in the dismissal of this action without prejudice and without further notice.

**DONE** and **ORDERED** in Tampa, Florida on September 14, 2010.

  
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JAMES S. MOODY, JR.  
UNITED STATES DISTRICT JUDGE

**Copies Furnished to:**  
Counsel/Parties of Record

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