

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

ANNETTE FLUKER,

Plaintiff,

vs.

Case No.: 8:13-cv1085-T35-AEP

STATE OF FLORIDA,

Defendant.

ORDER

THIS CAUSE comes before the Court for consideration of Plaintiff's Affidavit of Indigency (Dkt. 2), which the Court construes as a motion for leave to proceed *in forma pauperis*. On April 24, 2013, United States Magistrate Judge Anthony E. Porcelli issued a Report and Recommendation (Dkt. 3), recommending that Plaintiff's motion for leave to proceed *in forma pauperis* be denied and that Plaintiff's complaint be dismissed. Judge Porcelli found the Court could not determine what claims Plaintiff seeks to assert or whether a basis for establishing the Court's jurisdiction exists as Plaintiff's "complaint" contained "incoherent, disjointed, and illegible allegations against the State of Florida." (Dkt. 3) Judge Porcelli also found that amendment would be futile as Plaintiff cannot establish a basis for federal jurisdiction and Plaintiff's claims appear to be frivolous since they appear to involve events occurring more than twenty years ago. (*Id.*) No objection has been filed to the Report and Recommendation and the deadline to do so has passed.

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); see Williams v. Wainwright, 681 F.2d 732, 732 (11th Cir. 1982), cert. denied, 459 U.S. 1112 (1983). 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)). In the absence of specific objections, there is no requirement that a district judge review factual findings *de novo* 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); see Garvey v. Vaughn, 993 F.2d 776, 779 n.9 (11th Cir. 1993). 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, and in conjunction with an independent examination of the file, the Court is of the opinion that the Report and Recommendation should be adopted, confirmed, and approved in all respects. Accordingly, it is **ORDERED** that:

1. The Report and Recommendation (Dkt. 3) is **CONFIRMED** and **ADOPTED** as part of this Order;
2. Plaintiff’s motion for leave to proceed *in forma pauperis* (Dkt. 2) is **DENIED**;
3. Plaintiff’s Complaint is **DISMISSED**;
4. The Clerk is **DIRECTED** to **CLOSE** this Case.

DONE and ORDERED in Tampa, Florida, this 15th day of May 2013.



MARY S. SCRIVEN
UNITED STATES DISTRICT JUDGE

Copies furnished to:
Counsel of Record
Any Unrepresented Party