

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

AL-RASHID MUHAMMAD ABDULLAH,

Plaintiff,

v.

Case No: 8:16-cv-1182-T-27JSS

CITY OF PLANT CITY POLICE
DEPARTMENT and STATE OF FLORIDA
DEPARTMENT OF HIGHWAY SAFETY
AND MOTOR VEHICLES,

Defendants.

_____ /

ORDER

BEFORE THE COURT is Plaintiff's Amended Complaint (Dkt. 22), which the Court construes as a Motion for Leave to File an Amended Complaint, and Motion to Proceed *in Forma Pauperis* (Dkt. 23). Upon consideration, Plaintiff is granted leave to proceed *in forma pauperis*, the construed Motion for Leave to File an Amended Complaint is GRANTED, and the Amended Complaint (Dkt. 22) is STRICKEN.

Pursuant to 28 U.S.C. § 1915(a)(1), a court may, upon a finding of indigency, authorize the commencement of an action without requiring the prepayment of fees or security. Granting *in forma pauperis* status is discretionary. *Pace v. Evans*, 709 F.2d 1428, 1429 (11th Cir. 1983). "When considering a motion filed pursuant to § 1915(a), '[t]he only determination to be made by the court . . . is whether the statements in the affidavit satisfy the requirement of poverty.'" *Martinez v. Kristi Kleaners, Inc.*, 364 F.3d 1305, 1307 (11th Cir. 2004) (quoting *Watson v. Ault*, 525 F.2d 886, 891 (5th Cir.1976) (omissions in original)).

Plaintiff's Affidavit of Indigency (Dkt. 23-1) states that he has been unemployed since

December 2009, has \$25.00 in total cash, and that he has monthly expenses of \$450.00. He avers he owns one home and one GMC Sierra in full.¹ In light of the foregoing, it appears Plaintiff does not have assets sufficient to pay the required filing fee as well as provide for himself and his two dependents. Accordingly, Plaintiff is granted leave to proceed *in forma pauperis*.

Arguably, Plaintiff's Amended Complaint attempts to state a § 1983 claim for deprivation of property without due process. *See e.g. Grayden v. Rhodes*, 345 F.3d 1225, 1232 (11th Cir. 2003) (a § 1983 claim alleging denial of due process requires “(1) a deprivation of a constitutionally-protected liberty or property interest; (2) state action; and (3) constitutionally-inadequate process”) But, the Amended Complaint fails to comply with the pleading standards explicated in *Atlantic Bell Corp. v. Twombly*, 550 U.S. 544 (2007) and *Ashcroft v. Iqbal*, 556 U.S. 662 (2009), as well as Rules 8 and 10, Fed. R. Civ. P. Each count in the Complaint incorporates all prior allegations, (*see* Dkt. 22 ¶¶ 20, 21, 22, 23, 24), a hallmark of a shotgun pleading, making it ““virtually impossible to know which allegations of fact are intended to support which claim(s) for relief.”” *Paylor v. Hartford Fire Ins. Co.*, 748 F.3d 1117, 1125 (11th Cir. 2014) (quoting *Anderson v. Dist. Bd. of Trs. of Cent. Fla. Cmty. Coll.*, 77 F.3d 364, 366 (11th Cir.1996)). The proper remedy for a shotgun complaint or a complaint that does not comply with Rule 8(a) is to strike the complaint and order a repleader. *Paylor*, 748 F.3d at 1125-27.

Plaintiff may wish to speak with a lawyer at the Legal Information Program operated by the Tampa Chapter of the Federal Bar Association on Tuesdays from 11:00-12:30 p.m. on the 2nd floor of the United States Courthouse, 801 North Florida Avenue, Tampa, Florida. This is a free service for pro se litigants. Reservations for specific appointments may be made by calling (813) 301-5400; walk-ins are welcome if space is available. Additional resources are available for pro se litigants on

¹Plaintiff, in his Amended Complaint, also claims he owns a 2000 Chevy Impala valued at \$1800 that he did not reveal on his Affidavit of Indigency.

the Court's website (www.flmd.uscourts.gov) under the right-side link "Proceeding without a Lawyer."

Accordingly, Plaintiff is granted leave to proceed *in forma pauperis*. the construed Motion for Leave to File an Amended Complaint is **GRANTED**, the Amended Complaint (Dkt. 22) is **STRICKEN**. Plaintiff may file a second amended complaint within **twenty (20) days**.

DONE AND ORDERED this 23rd day of January, 2017.



JAMES D. WHITTEMORE
United States District Judge

Copies to:
Pro Se Plaintiff,
Counsel of Record