

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

KENYATTA MITCHELL,
Plaintiff,

v.

LOUIS DEJOY and UNITED STATES POSTAL
SERVICE,
Defendants.

Civil Action No.
1:22-cv-04665-SDG

OPINION & ORDER

This matter is before the Court on Plaintiff Kenyatta Mitchell's Application for Leave to Proceed *In Forma Pauperis* [ECF 1], United States Magistrate Judge Justin S. Anand's December 19, 2022 Final Report and Recommendation (the R&R) [ECF 3], and Mitchell's Objections to the R&R [ECF 5]. The Objections [ECF 5] are **OVERRULED** and the R&R [ECF 3] is **ADOPTED**. The Application for Leave to Proceed *In Forma Pauperis* is **DENIED** and this action is **DISMISSED WITHOUT PREJUDICE**.

On November 22, 2022, Mitchell filed an Application for Leave to Proceed *In Forma Pauperis*—that is, an application to serve her complaint on Defendants without prepayment of fees and costs or security therefor, pursuant to 28 U.S.C.

§ 1915(a)(1).¹ On November 28, Judge Anand found that Mitchell's application was incomplete and ordered her to file a completed form by December 13, 2022.² Mitchell failed to comply, and the R&R recommends that Mitchell's application be denied and the case be dismissed without prejudice.³ Mitchell objected to the R&R on December 30.⁴

A party challenging a report and recommendation issued by a federal magistrate judge must file written objections that specifically identify the portions of the proposed findings and recommendations to which an objection is made and must assert a specific basis for the objection. *United States v. Schultz*, 565 F.3d 1353, 1361 (11th Cir. 2009). In its broad discretion, the district court may consider an argument that was never presented to the magistrate judge, or it may decline to consider a party's argument that was not first presented to the magistrate judge. *Williams v. McNeil*, 557 F.3d 1287, 1290-92 (11th Cir. 2009).

Mitchell's Objections fail to target specific portions of the proposed findings and recommendations or explain why the R&R incorrectly concludes that she did

¹ ECF 1.

² ECF 2, at 2.

³ ECF 3, at 2.

⁴ ECF 5.

not properly complete her Application for Leave to Proceed *In Forma Pauperis*. Instead, her Objections merely ask for reconsideration. Because Mitchell does not object to the finding that she failed to comply with the Magistrate Judge's order in amending her *in forma pauperis* application, her Objections to the R&R are overruled.

Mitchell also requests legal assistance for the first time in her Objections.⁵ Because this request was never presented to the Magistrate Judge, the Court need not consider it. *Williams*, 557 F.3d at 1290-92. At this stage, counsel appointment is unwarranted due to the action's dismissal. However, Mitchell may renew her request for legal assistance should she choose to file a new *in forma pauperis* application.

The Court **OVERRULES** Mitchell's Objections [ECF 5] and **ADOPTS** the R&R [ECF 3] as the Order of this Court. The Application for Leave to Proceed *In Forma Pauperis* is **DENIED** and the action is **DISMISSED WITHOUT PREJUDICE**.

⁵ *Id.* at 3.

The Clerk is **DIRECTED** to close the case.

SO ORDERED this 21st day of July, 2023.



Steven D. Grimberg
United States District Court Judge