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UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-2430

ANNAMARIE RIETHMILLER,

Plaintiff - Appellant,

v.

UNNAMED DEFENDANTS,

Defendant - Appellee.

Appeal from the United States District Court for the Eastern District of North Carolina, at Raleigh. Louise W. Flanagan, District Judge. (5:20-cv-00606-FL)

Submitted: May 19, 2022 Decided: May 23, 2022

Before MOTZ and HARRIS, Circuit Judges, and TRAXLER, Senior Circuit Judge.

Dismissed by unpublished per curiam opinion.

Annamarie Riethmiller, Appellant Pro Se.

PER CURIAM:

Annamarie Riethmiller seeks to appeal the district court's order dismissing her action for declaratory judgment. We dismiss the appeal for lack of jurisdiction because the notice of appeal was not timely filed.

In civil cases, parties have 30 days after the entry of the district court's final judgment or order to note an appeal, Fed. R. App. P. 4(a)(1)(A), unless the district court extends the appeal period under Fed. R. App. P. 4(a)(5) or reopens the appeal period under Fed. R. App. P. 4(a)(6). "[T]he timely filing of a notice of appeal in a civil case is a jurisdictional requirement." *Bowles v. Russell*, 551 U.S. 205, 214 (2007).

The district court entered judgment on October 20, 2021. Riethmiller filed the notice of appeal on November 23, 2021. Because Riethmiller failed to file a timely notice of appeal or to obtain an extension or reopening of the appeal period, we dismiss the appeal.

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before this court and argument would not aid the decisional process.

DISMISSED

FILED: May 23, 2022

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 21-2430
(5:20-cv-00606-FL)

ANNAMARIE RIETHMILLER

Plaintiff - Appellant

v.

UNNAMED DEFENDANTS

Defendant - Appellee

J U D G M E N T

In accordance with the decision of this court, this appeal is dismissed.

This judgment shall take effect upon issuance of this court's mandate in accordance with Fed. R. App. P. 41.

/s/ PATRICIA S. CONNOR, CLERK

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
5:20-CV-606-FL

ANNAMARIE RIETHMILLER,	)	
	)	
Plaintiff,	)	**ORDER and**
	)	**MEMORANDUM AND**
v.	)	**RECOMMENDATION**
	)	
UNNAMED DEFENDANTS	)	

This pro se case is before the court on the motion to proceed *in forma pauperis* under 28 U.S.C. § 1915(a)(2) [D.E. 1] by plaintiff Annamarie Riethmiller ("plaintiff" or "Riethmiller") and for a frivolity review pursuant to 28 U.S.C. § 1915(e)(2)(B). It is also before the court on the following four nondispositive motions made by plaintiff:

(1) amended ex parte urgent motion in response to court's order [D.E. 5];

(2) motion for a protective order and motion for joinder [D.E. 7];

(3) motion for removal of case from Manatee County, Florida to this court [D.E. 8]; and

(4) motion for joinder [D.E. 9].

These matters were referred to the undersigned Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1). The court finds that plaintiff has demonstrated appropriate evidence of inability to pay the required court costs, and the application to proceed i*n forma pauperis* will be ALLOWED. However, based on the court's frivolity review and for the reasons stated below, the undersigned recommends that plaintiff's complaint be DISMISSED. In addition, the undersigned DENIES plaintiff's nondispositive motions pending before the court [D.E. 5; D.E. 7; D.E. 8; D.E. 9] as frivolous and without merit, and for the reasons stated below.[1]

[1] Absent such ruling, however, the undersigned would still have recommended these nondispositive motions be denied as moot, consistent with the recommendation that plaintiff's complaint be dismissed.

ORDER ON *IN FORMA PAUPERIS* MOTION

To qualify for *in forma pauperis* status, a person must show that he "cannot because of his poverty pay or give security for the costs . . . and still be able to provide himself and dependents with the necessities of life." *See Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948) (internal quotation marks omitted). The court has reviewed plaintiff's application and finds that she has adequately demonstrated her inability to prepay the required court costs. Her motion to proceed *in forma pauperis* [D.E. 1] is therefore ALLOWED.

MEMORANDUM AND RECOMMENDATION ON FRIVOLITY REVIEW

I. Factual Background and Claims

Plaintiff, a resident of Florida,[2] filed a complaint [D.E. 1-1] consisting of a complaint form with handwritten answers [D.E. 1-1 at 1-3] and three attachments thereto [D.E. 1-1 at 4-10]. The attached documents include a one-page "Filing Sheet: Urgent Motion" [D.E. 1-1 at 4], a one-page "Urgent Motion" [D.E. 1-1 at 5], and a five-page "Affidavit of the Ex Parte Petitioner, Annamarie Dorothea Riethmiller in Support of an Urgent Motion to the Above Honorable Court" [D.E. 1-1 at 6-10]. Although difficult to discern, plaintiff appears to claim that unnamed media and technology companies are causing unspecified harm and danger to the public and to the Constitution of the United States by prematurely broadcasting the results of the 2020 election, and prematurely stating that there has or has not been fraud in connection with the election while litigation is still pending. She claims that these companies should be barred from reporting on pending election results and pending litigation as "facts," and should instead be required to qualify their statements as being "opinions." Plaintiff describes her claims as follows:

[2] In her application to proceed *in forma pauperis*, plaintiff identifies St. Cloud, Florida as her city and state of legal residence. [D.E. 1 at 5]. Yet, throughout her filings, plaintiff provides that her "[t]emporary [r]esidence TO BE USED FOR CORRESPONDENCE HEREIN" is located in Coats, North Carolina. [D.E. 1-1 at 4]; *see also* [D.E. 1-1 at 5-6], [D.E. 2]. Plaintiff states she is temporarily living in Coats with family. [D.E. 1-1 at 6].

> The 2020 Election appears to have various court cases pending outcomes/pending election results. Media/technology companies alleging 'no fraud' or a victory either way till outcome of courts are endangering safety/psyche of nation and Ex Parte in the interests of justice a declaratory order is asked for in terms of which any organization with an audience must qualify assertions they make re 2020 Election are their opinion and not face and pending outcome of judicial decisions in various courts.

[D.E. 1-1 at 2].

Plaintiff does not identify any defendant in her complaint or in any of the accompanying documents. To the contrary, she affirmatively indicates in her filings that she does not intend to name any specific defendant. [D.E. 5; D.E. 6]. In addition, in each court form filed by plaintiff in this matter, a handwritten line is drawn through any blank space clearly reserved for the naming of a defendant. [D.E. 1 at 1; 1-4; 2; 3 at 1].

In her complaint form, plaintiff asserts that jurisdiction in this court arises under the "US Constitution – Voting laws." [D.E. 1-1 at 2]. Plaintiff further indicates, in her completed and filed Civil Cover Sheet [D.E. 1-3], her belief that the claims arise under federal question jurisdiction, and that the nature of her suit is "voting" and "other civil rights." [D.E. 1-3] (Civ. Cover Sheet § II.3 ("Federal Question" box marked as basis of jurisdiction); § IV ("440 Other Civil Rights" and "441 Voting" boxes marked as the "Nature of Suit Code Descriptions")).

The relief sought by plaintiff is a "declaratory order" that "any organization with an audience must qualify assertions they make re 2020 Election are their opinion and not fact and pending outcome of judicial decisions in various courts." [D.E. 1-1 at 2]. Specifically, plaintiff seeks an order from the court stating:

> That it is in the public interest that pending the final legal outcome of the 2020 Election results broadcasters and other media or technology firms with a capacity to reach voters of the 2020 election refrain from broadcasting election results as if a "fact" prematurely or make as if it is a fact/or not, that election fraud did or did not take place, and that they must qualify with such pronouncement that the result which they refer to or whether or not it is their opinion that fraud did or did not take

place in the election, is merely so in their opinion and is pending legal and likely judicial decisions.

[D.E. 1-1 at 4-5].

On November 20, 2020, United States District Judge Louise W. Flanagan entered an order [D.E. 4] which notes the following deficiencies in plaintiff's initial case filing: (1) plaintiff did not provide a proposed summons for all of the necessary parties for service of this action, (2) the U.S. Marshal would be unable to effect service upon defendant due to insufficient address information included on the summons, and (3) plaintiff did not identify a defendant party in the proposed complaint, therefore the complaint contains "insufficient information as to whom this case is against." [D.E. 4 at 1]. Plaintiff was directed to correct the deficiencies within fourteen (14) days from the filing of the order. [D.E. 4 at 2]. Plaintiff was warned that "[f]ailure to do so may result in the dismissal of this action without prejudice for failure to prosecute." [D.E. 4 at 2].

In response to the court's order, plaintiff filed an "Amended Urgent Motion in Response to This Court's Order Dated November 20, 2020." [D.E. 5]. This filing is a three-page document containing a one-page "Filing Sheet: Amended Urgent Motion in Response to This Court's Order Dated November 20, 2020" [D.E. 5 at 1], and a one-page "Amended Urgent Motion in Response to This Court's Order Dated November 20, 2020" [D.E. 5 at 3].[3] This filing appears to merely restate plaintiff's request that the court issue a "declaratory order" prohibiting media and technology firms from prematurely declaring as "fact," the presidential election results and the results of pending election fraud cases, and that doing so is in the public interest. [D.E. 5 at 1, 3].[4]

Plaintiff subsequently filed three additional motions for the court's consideration.

[3] Page two of the document is a blank page.

[4] The undersigned notes that his recommendation that this action be dismissed would have been the same if this review had taken place prior to the certification of the 2020 Presidential Election results, and regardless of the outcome of any litigation related to fraud alleged in the 2020 election.

Specifically, plaintiff submitted a "Motion for Protective Order and Motion for Joinder" [D.E. 7], a "Motion for Removal of Manatee County, Florida to this District Court" [D.E. 8], and a "Motion for Joinder" [D.E. 9].

II. APPLICABLE LEGAL STANDARDS FOR FRIVOLITY REVIEW

After allowing a party to proceed *in forma pauperis*, as here, the court must conduct a frivolity review of the case pursuant to 28 U.S.C. § 1915(e)(2)(B). In such a review, the court must determine whether the action is frivolous or malicious, fails to state a claim upon which relief can be granted, or seeks monetary relief from an immune defendant, and is thereby subject to dismissal. 28 U.S.C. § 1915(e)(2)(B); *see Denton v. Hernandez*, 504 U.S. 25, 27 (1992) (standard for frivolousness). A case is frivolous if it lacks an arguable basis in either law or fact. *Neitzke v. Williams,* 490 U.S. 319, 325 (1989).

In evaluating frivolity specifically, a pro se plaintiff's pleadings are held to "less stringent standards" than those drafted by attorneys. *White v. White*, 886 F.2d 721, 722-23 (4th Cir. 1989). Nonetheless, the court is not required to accept a pro se plaintiff's contentions as true. *Denton*, 504 U.S. at 32. The court is permitted to "pierce the veil of the complaint's factual allegations and dismiss those claims whose factual contentions are clearly baseless." *Neitzke*, 490 U.S. at 327. Such baseless claims include those that describe "fantastic or delusional scenarios." *Id.* at 328. Provided that a plaintiff's claims are not clearly baseless, the court must weigh the factual allegations in plaintiff's favor in its frivolity analysis. *Denton*, 504 U.S. at 32. The court must read the complaint carefully to determine if a plaintiff has alleged specific facts sufficient to support the claims asserted. *White*, 886 F.2d at 724.

Under Rule 8 of the Federal Rules of Criminal Procedure, a pleading that states a claim for relief must contain "a short and plain statement of the grounds for the court's jurisdiction . . . [and]

a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(1), (2). Case law explains that the factual allegations in the complaint must create more than a mere possibility of misconduct. *Coleman v. Md. Ct. Appeals*, 626 F.3d 187, 190 (4th Cir. 2010) (citing *Ashcroft v. Iqbal*, 556 U.S. 662, 679 (2009)). Likewise, a complaint is insufficient if it offers merely "labels and conclusions," "a formulaic recitation of the elements of a cause of action," or "naked assertion[s]" devoid of "further factual enhancement." *Iqbal*, 556 U.S. at 678 (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (internal quotation marks omitted)).

A court may also consider subject matter jurisdiction as part of the frivolity review. *See Lovern v. Edwards*, 190 F.3d 648, 654 (4th Cir. 1999) (holding that "[d]etermining the question of subject matter jurisdiction at the outset of the litigation is often the most efficient procedure"); *Cornelius v. Howell*, No. 3:06-3387-MBS-BM, 2007 WL 397449, at *2-4 (D.S.C. Jan. 8, 2007) (discussing the lack of diversity jurisdiction during frivolity review as a basis for dismissal). "Federal courts are courts of limited jurisdiction and are empowered to act only in those specific situations authorized by Congress." *Bowman v. White*, 388 F.2d 756, 760 (4th Cir. 1968). The presumption is that a federal court lacks jurisdiction in a particular case unless it is demonstrated that jurisdiction exists. *Lehigh Min. & Mfg. Co. v. Kelly*, 160 U.S. 327, 336 (1895). The burden of establishing subject matter jurisdiction rests on the party invoking jurisdiction, here the plaintiff. *Adams v. Bain*, 697 F.2d 1213, 1219 (4th Cir. 1982) ("The burden of proving subject matter jurisdiction . . . is on the plaintiff, the party asserting jurisdiction."). The complaint must affirmatively allege the grounds for jurisdiction. *Bowman*, 388 F.2d at 760. If the court determines that it lacks subject matter jurisdiction, it must dismiss the action. Fed. R. Civ. P. 12(h)(3). One basis for subject matter jurisdiction, so-called federal question jurisdiction, is that a claim arises under the Constitution, laws, or treaties of the United States. 28 U.S.C. § 1331.

III. GROUNDS FOR DISMISSAL OF PLAINTIFF'S CLAIMS

Having found that plaintiff is financially eligible to proceed *in forma pauperis*, the court must now undertake a frivolity review of this case, pursuant to 28 U.S.C. § 1915(e)(2)(B). Under § 1915(e)(2)(B), a court shall dismiss a case if the action is: "(i) frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief." 28 U.S.C. § 1915(e)(2)(B). Based upon the court's review and for the reasons stated below, the undersigned recommends this matter be dismissed in its entirety as frivolous and failing to state a claim. Additionally, the court recommends that this matter be dismissed for the independent reasons of failure to prosecute and failure to follow a court order.

A. FRIVOLOTY REVIEW PURSUANT TO 28 U.S.C. § 1915(e)(2)(B)

Plaintiff Riethmiller's complaint should be dismissed for several reasons. First, her complaint, at best, contains irrational and nonsensical allegations and does not include sufficient supporting factual allegations to demonstrate a non-frivolous claim. *See Denton*, 504 U.S. at 33 (stating that "a finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible, whether or not there are judicially noticeable facts available to contradict them"); *see also Wesson v. Oglesby*, 910 F.2d 278, 281 (5th Cir. 1990). For example, a portion of her affidavit in support of her complaint discussing potential fraud that occurred during the 2020 presidential election states:

> Even in the very worst case scenario, namely where those who want to implement the Saul Alinsky 8 levels of control . . . and in particular the eight to promote class warfare, and thus chaos so that the American people can become a class of useful idiots (the way in which Stalin described his followers), voters such as myself are entitled to know this and through transparent reporting after the Courts made unbiased decisions based on facts and evidence.

[D.E. 1-1 at 7]. She also alleges that certain news companies are attempting to "mislead 'we the people' knowing that the final 2020 results are not out . . . [which] can harm us all and pit us

against one another . . . ." [D.E. 1-1 at 9]. She provides as examples that (1) on November 14, 2020, she saw a report on the WRAL News Channel in which an NBC reporter "said that President Trump's allegations of fraud are false" and (2) on the next day "Yahoo carried a lead article under the Title :[']Biden Victory['] [sic]." [D.E. 1-1 at 10]. After referencing these examples, plaintiff appears to clarify that she seeks a broad order, non-specific to any particular defendant, explaining:

> Note in addition, it is not asked that this Court interferes with free speech, in the examples given, let NBC say in their opinion President Trump's assertions of fraud are false, it is by their calling it as if fact, that the abuse lies, and the same goes for Yahoo who could have said they forecast as Victory by Biden, without making it out as if fact.
>
> Because there are such a multitude of news and media organizations this order is asked for Ex Parte and the Court is asked to considering the public interest and the safety of the American People are at stake, to make the order as a declaratory order binding those organizations to merely be truthful to the American People by stating it is their opinion and not trying to make it as if fact.

[D.E. 1-1 at 10].

Second, the complaint does not comply with Rule 8(a) of the Federal Rules of Civil Procedure. At no time in Riethmiller's pleadings does she either (1) articulate a basis for this court's jurisdiction, aside from broadly stating "US Constitution – Voting laws" [D.E. 1-1 at 2], or (2) provide a short and plain statement of a claim showing that she is entitled to relief. Additionally, the court notes Riethmiller is not a resident of North Carolina and has not alleged any facts involving a resident of North Carolina, and her pleading is anything but short and plain.

Next, plaintiff does not have standing to bring this action. *See Riethmiller v. Electors for the State*, No. 1:12CV00058, 2012 WL 4742363, at *1 (W.D.Va. Oct. 4, 2012) (finding that plaintiff lacked legal standing to bring claims and dismissing case as frivolous). Here, Riethmiller alleges standing based on her status as a naturalized citizen who "made an oath to defend the Constitution of the United States from enemies foreign or domestic[,]" and her status as a

registered voter. [D.E. 1-1 at 6]. However, to have standing a plaintiff must have "[a] plaintiff must allege *personal* injury fairly traceable to the defendant's allegedly unlawful conduct and likely to be redressed by the requested relief." *Allen v. Wright*, 468 U.S. 737, 751 (1984) (emphasis added); *see also Spokeo, Inc. v. Robins*, 578 U.S. 330, 136 S.Ct. 1540, 1548 (2016) (stating that a plaintiff must have a "particularized" injury, in that "it must affect the plaintiff in a personal and individual way"). Here, plaintiff fails to allege an injury that is personal to her, as opposed to the public at large. She states only that the alleged action here "can harm us all[5] and pit us against one another and is violating our Constitutional rights that only the law be trusted[,]" and "[t]his Court must now [sic] allow this abuse and manipulation of the American people . . . ." [D.E. 1-1 at 9]. She also fails to allege injury fairly traceable to a defendant's conduct, as she refuses to name a defendant in the action.

Of note, although she is not familiar to this district, it appears that Riethmiller frequently files frivolous suits in other United States District Courts, most of which have been dismissed under frivolity review.[6] The instant case is no exception. In fact, plaintiff references this very issue in her affidavit filed in support of her complaint [D.E. 1-1 at 6-10], stating:

> I personally as the many fillings to Federal and other Courts show over the last decade, have clear evidence and have suffered an abuse of every possible right because of bias in the judiciary {(May 1, 2012 [sic] Obama and Biden were served with clear and unequivocal evidence that I was legitimately calling on them in terms of 18USC2382 to intervene and prevent then 18USC241 Constitutional crimes which were under way through my late husband's psychiatrist and her long standing friends in the 12th Judicial County Court for Manatee County Florida . . . and instead Obama/Biden presumably ordered Smith to ensure getting rid of me as complaining wife, Smith May 24, 2012 in 41-2009-DR-10430 violating every possible right I had . . . the result of the abuse and violation of my United States

[5] In referring to "us all," Plaintiff appears to mean the American people as an entirety. [D.E. 1-1 at 9].

[6] *See e.g.*, *Annamarie v. Electors for the State*, No. 3:12-cv-85, 2013 WL 1726360 (D.N.D. Mar. 13, 2013) (citing to federal lawsuits in 24 other districts filed by Riethmiller, the majority of which were deemed frivolous), *report and recommendation adopted*, No. 3:12-cv-85, 2013 WL 2158412 (D.N.D. Apr. 22, 2013), *appeal dismissed*, No. 13-2040 (8th Cir. July 11, 2013).

> Constitution Supremacy Clause rights I have suffered has made me know first hand the United States Constitution and Judicial System is failing because the law is not followed and those in the Judicial system are traitors to "we the people" and their laws and whatever/or whose ever agenda they follow it is not that set by 'we the people' through our laws. . . . Because of Obama failing in his Constitutional duties and Amendment 14 to the United States making it clear that if a candidate makes themselves available for election who knowingly violated the Constitution, their conduct disqualified them from being a candidate and then as now duty bound to defend the Constitution rightly through the judicial system, caused even more abuse against me by being made out as frivolous.

[D.E. 1-1 at 8]. Manatee County, Florida, referenced above by plaintiff, sits in the Middle District of Florida. The United States District Court for the Middle District of Florida has "deemed Plaintiff [Riethmiller] a vexatious litigant and has required that a United States magistrate judge review any case filed by Plaintiff [Riethmiller]." *Riethmiller v. People Ready Fla., Inc.*, No. 6:17-cv-1414-Orl-41DCI, 2017 WL 6762443, at *1 (M.D. Fla. Dec. 7, 2017).

For the reasons stated above, the undersigned RECOMMENDS that Plaintiff's complaint be DISMISSED.

B. FAILURE TO PROSECUTE

Plaintiff's complaint should also be dismissed for the independent reason of failure to prosecute. As specified above, United States District Judge Louise W. Flanagan entered an order [D.E. 4] in this case which noted the deficiencies in plaintiff's initial case filing, primarily the lack of an identified defendant. Plaintiff was warned that "[f]ailure to do so may result in the dismissal of this action without prejudice for failure to prosecute." [D.E. 4 at 2].

Despite this specific instruction and warning by Judge Flanagan, plaintiff failed to cure the deficiencies within the appointed time. Instead, on December 3, 2020, plaintiff filed an "Ex Parte Urgent Motion in Response to this Court's Order Dated November 20, 2020." [D.E. 5]. This response appears, in substance, to merely be a refiling of plaintiff's proposed complaint [D.E. 1-1] fashioned as a response to the court's deficiency order. The response fails to provide a proposed

summons, fails to provide any address allowing for the U.S. Marshal to effect service, and fails to name a single defendant. It also appears that plaintiff has no intention on curing these defects. In her response plaintiff emphasizes that she is an "EX PARTE PETITIONER." [D.E. 5]. She also restates that she seeks a declaratory order and "formal announcement" of the order, to "warn those who contravene such order . . . ." [D.E. 5]. Rather than naming a specific defendant who has engaged in the alleged unlawful conduct, plaintiff asks for a broad order prohibiting all future unknown and unnamed defendants from certain conduct.

Plaintiffs have a general duty to prosecute their cases, and a district court has the authority to dismiss a plaintiff's action because of his failure to prosecute, either upon a defendant's motion or sua sponte. *Link v. Wabash R.R. Co.*, 370 U.S. 626, 629 (1962). Plaintiff is proceeding pro se, so she bears the entire responsibility of prosecuting this case. It is plaintiff's burden to move this case forward, and she has failed to do so. Although "dismissal is not a sanction to be invoked lightly," *Ballard v. Carlson*, 882 F.2d 93, 95 (4th Cir. 1989) (citing *Davis v. Williams*, 588 F.2d 69, 70 (4th Cir. 1978)), plaintiff here has failed to correct the deficiencies explicitly identified in the court's November 20, 2020 Order. Plaintiff was warned that a failure to correct the deficiencies may result in dismissal of the case. Given these failures, and the lack of intent to comply with the court's order, specifically that a defendant party be identified, it appears plaintiff lacks the intent to prosecute her claims.

Accordingly, it is RECOMMENDED that the case be DISMISSED for failure to prosecute and failure to comply with the court's order.

IV. PLAINTIFF'S REMAINING MOTIONS

In addition to her amended "Ex Parte Urgent Motion in Response to Court's Order" [D.E. 5] discussed above, plaintiff has submitted three additional motions for the court's consideration.

Specifically, plaintiff submitted a "Motion for Protective Order and Motion for Joinder" [D.E. 7], a "Motion for Removal of Manatee County, Florida to this District Court" [D.E. 8], and a "Motion for Joinder" [D.E. 9]. For the reasons set forth below, the undersigned DENIES each of plaintiff's non-dispositive motions [D.E. 5, 7, 8, 9] as they are frivolous and without merit.

In her "Motion for Protective Order and Motion for Joinder" [D.E. 7] and the attachments thereto, plaintiff appears to claim, amongst other things, that she is being persecuted and harassed by the local government in Manatee County Florida. Specifically, she alleges that she "do[es] not believe it is a co-incidence that on the same day [she] filed this matter in this Court that the Manatee County, Florida Local Government decided to dispatch to [her] the two invoices . . . appended hereto . . . ." [D.E. 7-8 at 2]. The attached invoices appear to be related to a mortgage foreclosure action. [D.E. 7-4 at 1]. A number of other disjointed and completely unrelated documents are attached apparently in support of this motion. Plaintiff cites to the Constitution of the United States, in particular the Supremacy Clause and Bill of Rights [D.E. 7 at 1], as a basis for her motion. However, the factual allegations by plaintiff, many of which are nonsensical, are completely unrelated to the action presently in this court. Similarly, the Manatee County Government is completely unrelated to this action and is not a proper party.

Next, in her "Motion for Removal of Manatee County, Florida to this District Court" [D.E. 8], plaintiff appears to ask the court to review judgments entered against plaintiff in Manatee County, Florida, dating back until at least 2012. Specifically, she asks for removal "once the Court has received all dockets of all cases in which [plaintiff] was a party in Manatee County which will clearly illustrate the gross violations of her Constitutional rights to equality before the law, an initial order that giving effect to the Bill of Rights and in particular the Supremacy Clause of the United States Constitution." [D.E. 8 at 1]. The alleged violations include her being forced to

change her name against her will [D.E. 8 at 2], and the court and government's failure to uphold the laws of Florida and the United States causing the death of her husband and disappearance of her pets [D.E. 8 at 2-3]. It is unclear exactly what matter plaintiff wants removed to this court, however, her factual allegations are completely unrelated to the action currently before the court and are again nonsensical. Further, the court here would be an improper venue for actions arising solely in Manatee County, Florida. *See e.g., Riethmiller v. Electors for the State of Fla.*, No. 3:12cv493/MW/EMT, 2013 WL 646308 (N.D. Fla. Jan. 30, 2013).

Finally, in her "Motion for Joinder" [D.E. 9], plaintiff appears to ask the court to join all claims alleging voter fraud in the most recent presidential election to this action, and fully evaluate these claims on the merit. That is, plaintiff requests that all cases in federal and state courts, both active and "dismissed on technicalities," be joined here. [D.E. 9-2 at 1-2]. However, plaintiff fails to point the court to any claim for which joinder would be proper. Similar to her allegations above, plaintiff's allegations here are again rambling, disjointed, and nonsensical.

V. CONCLUSION

For the reasons set forth above, it is RECOMMENDED that plaintiff's complaint be DISMISSED as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) and (ii). It is also RECOMMENDED that this action be DISMISSED for failure to prosecute and failure to follow a court order.

Pursuant to the authority under 28 U.S.C. § 636(b)(1), the undersigned DENIES the following nondispositive motions pending before the court as frivolous and without merit:

(1) amended ex parte urgent motion in response to court's order [D.E. 5];

(2) motion for a protective order and motion for joinder [D.E. 7];

(3) motion for removal of case from Manatee County, Florida to this court [D.E. 8]; and

(4) motion for joinder [D.E. 9].

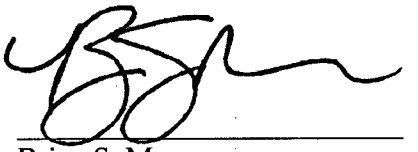
Absent such ruling, however, the undersigned would have recommended these nondispositive motions be DENIED AS MOOT, consistent with the above recommendation that plaintiff's complaint be dismissed.

IT IS DIRECTED that a copy of this Order and Memorandum and Recommendation be served on plaintiff or, if represented, her counsel. Plaintiff shall have until **September 27, 2021** to file written objections to this Memorandum and Recommendation. The presiding District Judge must conduct her own review (that is, make a de novo determination) of those portions of the Memorandum and Recommendation to which objection is properly made and may accept, reject, or modify the determinations in the Memorandum and Recommendation; receive further evidence; or return the matter to the magistrate judge with instructions. *See, e.g.*, 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3); Local Civ. R. 1.1 (permitting modification of deadlines specified in local rules), 72.4(b), E.D.N.C.

If a party does not file written objections to the Memorandum and Recommendation by the foregoing deadline, the party will be giving up the right to review of the Memorandum and Recommendation by the presiding district judge as described above, and the presiding district judge may enter an order or judgment based on the Memorandum and Recommendation without such review. In addition, the party's failure to file written objections by the foregoing deadline will bar plaintiff from appealing to the Court of Appeals

from an order or judgment of the presiding district judge based on the Memorandum and Recommendation. ***See Wright v. Collins*****, 766 F.2d 841, 846-47 (4th Cir. 1985).**

Submitted, this the 13th day of September, 2021.



Brian S. Meyers
United States Magistrate Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:20-CV-606-FL

ANNAMARIE RIETHMILLER,	)	
	)	
Plaintiff,	)	
	)	
v.	)	ORDER
	)	
UNNAMED DEFENDANTS,	)	
	)	
Defendants.	)	

This matter is before the court upon the memorandum and recommendation ("M&R") of Magistrate Judge Brian S. Meyers, pursuant to 28 U.S.C. § 636(b)(1)(C) and Fed. R. Civ. P. 72(b), wherein it is recommended that the court dismiss plaintiff's complaint upon review under 28 U.S.C. § 1915(e)(2)(B). (DE 10). Plaintiff filed objections to the M&R. In this posture, the issues raised are ripe for ruling. For the following reasons, the court adopts the M&R, and dismisses plaintiff's complaint.

The district court reviews de novo those portions of a magistrate judge's M&R to which specific objections are filed. 28 U.S.C. § 636(b). The court does not perform a de novo review where a party makes only "general and conclusory objections that do not direct the court to a specific error in the magistrate's proposed findings and recommendations." Orpiano v. Johnson, 687 F.2d 44, 47 (4th Cir. 1982). Absent a specific and timely filed objection, the court reviews only for "clear error," and need not give any explanation for adopting the M&R. Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005); Camby v. Davis, 718 F.2d 198, 200 (4th Cir.1983). Upon careful review of the record, "the court may accept, reject, or

modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Under 28 U.S.C. § 1915(e)(2), the court may dismiss an action that is frivolous or malicious, fails to state a claim on which relief may be granted, or seeks monetary relief against a defendant who is immune from such relief.

The magistrate judge recommends dismissal of plaintiff's action on multiple grounds, including lack of standing, failure to state a claim, and failure to prosecute. Upon de novo review of the M&R, the record in this case, and plaintiff's objections, the court adopts the M&R. Plaintiff lacks standing to assert her claims based upon the 2020 elections, because she has failed to allege a personal injury traceable to any defendants. Allen v. Wright, 468 U.S. 737, 751 (1984). Dismissal also is warranted for failure to state a claim and for failure to prosecute, where plaintiff does not identify defendants as directed in the court's November 20, 2020, order. (DE 4).

The court writes separately to augment the analysis of the M&R with respect to plaintiff's claims regarding conduct in Manatee County, Florida, further emphasized in plaintiff's objections. (See, e.g., DE 13 at 4-5). Plaintiff, as a "party losing in state court[,] is barred from seeking what in substance would be appellate review of the state judgment in a United States district court, based on the losing party's claim that the state judgment itself violates the loser's federal rights." Brown & Root, Inc. v. Breckenridge, 211 F.3d 194, 198 (4th Cir. 2000). In addition, lack of personal jurisdiction over potential defendants in Florida is demonstrated from the face of plaintiff's allegations. See Young v. New Haven Advoc., 315 F.3d 256, 261 (4th Cir. 2002).

In sum, based on the foregoing, the court ADOPTS the M&R, (DE 10) and overrules plaintiff's objections (DE 13). Plaintiff's claims are DISMISSED WITHOUT PREJUDICE pursuant to 28 U.S.C. § 1915(e)(2). The clerk is DIRECTED to close this case.

SO ORDERED, this the 20th day of October, 2021.

LOUISE W. FLANAGAN
United States District Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

ANNAMARIE RIETHMILLER Plaintiff,	)	
v.	)	**JUDGMENT**
	)	5:20-CV-606-FL
UNNAMED DEFENDANTS Defendant.	)	

Decision by Court.

This action came before the Honorable Louise W. Flanagan, United States District Judge, for consideration of the Memorandum and Recommendations of the United States Magistrate Judge, to which objections were filed.

IT IS ORDERED, ADJUDGED AND DECREED in accordance with the court's order entered October 20, 2021, and for the reasons set forth more specifically therein, that this action is DISMISSED WITHOUT PREJUDICE.

This Judgment Filed and Entered on October 20, 2021, and Copies To:
Annamarie Riethmiller (via US Mail) P O Box 620473, Orlando, FL 32862

October 20, 2021

PETER A. MOORE, JR., CLERK

/s/ Sandra K. Collins
(By) Sandra K. Collins, Deputy Clerk