

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

ANNAMARIE UNKNOWN, ET AL.

PLAINTIFFS

VS.

CIVIL ACTION NO. 3:12CV671TSL-MTP

ELECTORS FOR THE STATE OF MISSISSIPPI

DEFENDANTS

ORDER

This cause is before the court on the magistrate judge's report and recommendation entered on October 10, 2012. Having considered the report and recommendation, the court now concludes that it should be adopted in part as follows.

By the report and recommendation, the magistrate judge recommends that plaintiff's motion to proceed in forma pauperis be denied and the complaint dismissed pursuant to § 1915 because the complaint fails to raise a non-frivolous issue. Having reviewed the record in this case, particularly plaintiff's affidavit of indigency, the court concludes that the motion to proceed in forma pauperis should be granted. Walter v. Root and Brown, Inc., 109 F.3d 766 (5th Cir. 1997) ("Whether a party may proceed IFP in the district court is based solely upon economic criteria") (citing Watson v. Ault, 525 F. 2d 886, 891 (5th Cir. 1976) (setting forth, inter alia, two-part treatment of frivolity issue)). This being said, as the magistrate judge correctly concluded that the complaint is frivolous and is therefore subject to dismissal under

§ 1915, it will adopt as its own opinion the magistrate judge's finding in this regard.

Based on the foregoing, it is ordered that the magistrate judge's October 10, 2012 report and recommendation is adopted as the opinion of the court to the extent set forth above. It is further ordered that plaintiff's motion to proceed in forma pauperis is granted and that her complaint is dismissed as frivolous under § 1915.

A separate judgment will be entered in accordance with Rule 58 of the Federal Rules of Civil Procedure.

SO ORDERED this 30th day of October, 2012.

/s/ Tom S. Lee
UNITED STATES DISTRICT JUDGE