

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

CASE NO. 25-81219-CIV-CANNON/Matthewman

PATRICIA TESTA, *et al.*,

Plaintiffs,

v.

HAYDEN O'BYRNE,

Defendant.

/

**ORDER SCREENING COMPLAINT, DISMISSING CASE,
AND DIRECTING CLERK MAILING**

THIS CAUSE comes before the Court upon a sua sponte review of Plaintiffs' Complaint [ECF No. 1] and Motion for Leave to Proceed *in forma pauperis* [ECF No. 3]. For the reasons stated below, Plaintiffs' Complaint [ECF No. 1] is **DISMISSED**, the Motion to Proceed In Forma Pauperis [ECF No. 3] is **DENIED AS MOOT**, and the Clerk is directed to **CLOSE** this case. Additionally, in light of this Order, Plaintiffs' subsequently filed Motion to Amend/Correct [ECF No. 6] is **DENIED AS MOOT**.

* * *

In accordance with the screening procedure in 28 U.S.C. § 1915 for proceedings in forma pauperis, the Court must dismiss a case if the complaint "is frivolous or malicious" or "fails to state a claim upon which relief may be granted." 28 U.S.C. § 1915(e)(2)(B)(i)–(ii). A dismissal for failure to state a claim under § 1915(e)(2)(B)(ii) is governed by the same standard as a dismissal under Rule 12(b)(6) of the Federal Rules of Civil Procedure. Fed. R. Civ. P. 12(b)(6); *Mitchell v. Farcass*, 112 F.3d 1483, 1490 (11th Cir. 1997). A court may dismiss a complaint that fails to contain "enough facts to state a claim to relief that is plausible on its face." *Bell Atl. Corp. v.*

Twombly, 550 U.S. 544, 570 (2007). “A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged.” *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009).

Pro se pleadings are held to a less stringent standard than those drafted by attorneys and are thus liberally construed. *Evans v. Georgia Reg’l Hosp.*, 850 F.3d 1248, 1253 (11th Cir. 2017). However, liberal construction of *pro se* pleadings “does not give a court license to serve as *de facto* counsel for a party, or to rewrite an otherwise deficient pleading in order to sustain an action.” *Campbell v. Air Jamaica Ltd.*, 760 F.3d 1165, 1168–69 (11th Cir. 2014).

DISCUSSION

Plaintiffs filed a Complaint on September 30, 2025, with no discernable factual allegations or cause of action [ECF No. 1]. Plaintiffs appear to be asking the court to compel Defendant Hayden O’Byrne, then United States Attorney for the Southern District of Florida, to empanel a Grand Jury and present evidence that Plaintiffs have gathered regarding unspecified “election violations” [ECF No. 1 pp. 3–4]. But nothing in Plaintiffs’ Complaint comes close to alleging any violation of law or any basis for the relief sought [ECF No. 1 pp. 3–4]. Dismissal is therefore appropriate. 28 U.S.C. § 1915(e)(2)(B)(i)–(ii) (requiring dismissal of *pro se* case where action is “frivolous or malicious” and “fails to state a claim on which relief may be granted”).

For these reasons, it is **ORDERED AND ADJUDGED** as follows:

1. Plaintiffs’ Complaint [ECF No. 1] is **DISMISSED** without leave to amend in this action. Any request to amend is deemed futile in light of the obviously frivolous nature of Plaintiffs’ Complaint.
2. Plaintiffs’ Motion for Leave to Proceed *in forma pauperis* [ECF No. 3] is **DENIED AS MOOT**.

CASE NO. 25-81219-CIV-CANNON/Matthewman

3. Plaintiffs' Motion to Amend/Correct [ECF No. 6] is **DENIED AS MOOT**.
4. The Clerk is directed to **MAIL** a copy of this Order to *pro se* Plaintiffs at the addresses listed below and file a Notice of Compliance on the docket.

ORDERED in Chambers at Fort Pierce, Florida, this 22nd day of October 2025.


AILEEN M. CANNON
UNITED STATES DISTRICT JUDGE

cc: **Patricia Testa**

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PRO SE

Eugene Testa

[REDACTED]
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