

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

PRESTON JEROME TAYLOR,
Plaintiff,
vs.
NAPH CARE,
Defendant.
CIV. ACT. NO. 1:23-cv-299-TFM-B

MEMORANDUM OPINION AND ORDER

On August 7, 2023, the Magistrate Judge entered a Report and Recommendation which recommends this action be dismissed without prejudice prior to service of process pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) for failure to disclose prior lawsuits as required by the Court’s complaint form (citing Doc. 1 at 3). See Doc. 3. Plaintiff timely filed objections stating he misunderstood and believed that the inference on the form was for “open cases’ where decisions had not yet been made” or actions that were “ongoing.” See Doc. 4 at 1. Additionally, he stated he would have disclosed them though he did not have access to the case numbers at the time. Id.

With regard to Plaintiff’s objections, the Court does not find them credible because on that section, question 6 specifically states “If your case is no longer pending and has been dismissed, state the reason given by the Court as to why your case was dismissed, i.e., frivolous, malicious, failed to state a claim, defendants were immune, etc.” Doc. 1 at 3, Section C, Question 6. Next, Questions 7 and 8 ask for the approximate date of filing lawsuit and the approximate date of ruling by court. Id. at Questions 7-8. Those very questions make it clear that it includes closed cases where decisions were made. Even if Plaintiff did not have access to his case numbers, he could have provided sufficient detail about the case and indicated that he did not have the case numbers.

Therefore, the objections are overruled. Moreover, as noted by the Report and Recommendation, this dismissal is without prejudice, which means that Plaintiff can refile since the actions are still well within the statute of limitations. However, Plaintiff is specifically cautioned that continued failure to disclose all his lawsuits relating to his imprisonment(s) could result in sufficient strikes to bar future prisoner lawsuits.

Therefore, after due and proper consideration of all portions of this file deemed relevant to the issues raised, and a *de novo* determination of those portions of the Recommendation to which objection is made, the Report and Recommendation of the Magistrate Judge is **ADOPTED** as the opinion of this Court. Accordingly, it is **ORDERED** that this action is **DISMISSED without prejudice** as malicious for abuse of the judicial process pursuant to 28 U.S.C. § 1915(e)(2)(B)(i).

A separate judgment will be entered pursuant to Fed. R. Civ. P. 58.

DONE and **ORDERED** this 3rd day of November, 2023.

/s/Terry F. Moorer
TERRY F. MOORER
UNITED STATES DISTRICT JUDGE