

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION**

EARVIN EALY,

Plaintiff,

v.

CASE NO. 5:15-cv-00160-MP-GRJ

FLORIDA DEPARTMENT OF CORRECTIONS, et al.,

Defendants.

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ORDER

This cause comes on for consideration upon the Magistrate Judge's Report and Recommendation dated July 16, 2015. (Doc. 5). The parties have been furnished a copy of the Report and Recommendation and have been afforded an opportunity to file objections pursuant to Title 28, United States Code, Section 636(b)(1). Plaintiff has filed objections at Doc. 7. I have made a de novo review based on those objections.

Having considered the Report and Recommendation, and the timely filed objections, I have determined that the Report and Recommendation should be adopted. The plaintiff, who is a blind prisoner, failed to disclose prior lawsuits on his complaint form, and the Magistrate Judge recommends dismissal for this lack of candor. The plaintiff objected, arguing that he failed to answer that question truthfully because he had to rely on another inmate to fill out the form for him because of his disability. This explanation is rejected because plaintiff was able to answer

the question to list two cases, he just left out the remaining cases. This shows an ability to list cases and a deliberate choice to leave others out.

Accordingly, it is hereby

ORDERED AND ADJUDGED:

1. The magistrate judge's Report and Recommendation is adopted and incorporated by reference in this order.
2. This case is dismissed without prejudice for abuse of the judicial process. Although the dismissal is without prejudice the dismissal should operate as a strike pursuant to 28 U.S.C. § 1915(g)

DONE AND ORDERED this 1st day of October, 2015

s/Maurice M. Paul
Maurice M. Paul, Senior District Judge