

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION**

JAMES ALLEN WESLEY, JR.,

Plaintiff,

v.

Case No. 5:24-cv-86-TKW-MJF

S. PAYNE, et al.,

Defendants.

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ORDER

This case is before the Court based on the magistrate judge’s Report and Recommendation (Doc. 5). No objections were filed.

Upon due consideration of the Report and Recommendation and the case file, the Court agrees with the magistrate judge’s determination that this case should be dismissed under 28 U.S.C. §§ 1915(e)(2)(B)(i) and 1915A(b)(1) as malicious and an abuse of the judicial process based on Plaintiff’s failure to completely disclose his litigation history. *See Burrell v. Moore*, 854 F. App’x 624 (11th Cir. 2021) (“An action is malicious when a prisoner misrepresents his prior litigation history on a complaint form requiring disclosure of such history and signs the complaint under penalty of perjury”). Accordingly, it is **ORDERED** that:

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 maliciousness and abuse of the judicial process under 28 U.S.C. §§ 1915(e)(2)(B)(i) and 1915A(b)(1).

3. The Clerk will enter judgment in accordance with this Order and close the case file.

DONE and ORDERED this 3rd day of June, 2024.

A handwritten signature in blue ink, appearing to read "T. Kent Wetherell, II", with a stylized flourish at the end.

T. KENT WETHERELL, II
UNITED STATES DISTRICT JUDGE