

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

RUDOLPH SHAWN GAGUSKI,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 5:13-CV-97 (MTT)
)	
CARL HUMPHREY, et al.,)	
)	
Defendants.)	
)	

ORDER

Before the Court is the Recommendation of Magistrate Judge Stephen Hyles (Doc. 30) on the Defendants’ motion to dismiss (Doc. 24). The Magistrate Judge recommends granting the motion because the Plaintiff, a prisoner suing pursuant to 42 U.S.C. § 1983, has abused the judicial process by failing to disclose all of his prior lawsuits when asked to do so on his § 1983 complaint form. The Plaintiff has objected to the Recommendation. The Court has considered the objection and has made a de novo determination of the portions of the Recommendation to which the Plaintiff objects.

The Plaintiff contends he only disclosed one prior lawsuit because it was the only one that was “actually going.”¹ The Plaintiff appears to contend he thought the form only required him to disclose lawsuits that were active in some way.² However, the plain language of the form belies this interpretation. The section entitled “Previous

¹ The rest of the Plaintiff’s objection deals with the substance of his claim and does not address the findings in the Recommendation.

² The Plaintiff also contends that the clerk mistakenly filed some of his documents as new cases when he really intended them as amendments to his existing case. However, the Magistrate Judge only considered six of the nine cases cited by the Defendants because three of them were consolidated with the one case the Plaintiff listed on his § 1983 form.

Lawsuits” begins with the statement: “NOTE: FAILURE TO DISCLOSE **ALL** PRIOR CIVIL CASES MAY RESULT IN THE DISMISSAL OF THIS CASE. IF YOU ARE UNSURE OF ANY PRIOR CASES YOU HAVE FILED, THAT FACT MUST BE DISCLOSED AS WELL.” (Doc. 9 at 2) (emphasis in original). The form then separately asks whether the Plaintiff has filed lawsuits with “the same or similar facts or issues” and whether the Plaintiff has filed other lawsuits. (Doc. 9 at 2). Thus, the Court agrees with the Magistrate Judge that the Plaintiff’s failure to disclose all prior lawsuits amounts to abuse of the judicial process.

The Court has reviewed the Recommendation and the Plaintiff’s objection, and the Court accepts and adopts the findings, conclusions, and recommendations of the Magistrate Judge. The Recommendation is **ADOPTED** and made the order of this Court. Accordingly, the Defendants’ motion to dismiss (Doc. 24) is **GRANTED** and the complaint is **DISMISSED without prejudice**.

SO ORDERED, this 25th day of March, 2014.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT