

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

RICKY FARRUGIA,

Plaintiff,

v.

GEORGE IVEY, et al.,

Defendants.

)
)
)
)
)
)
)
)
)
)
)

CIVIL ACTION NO. 5:16-CV-128 (MTT)

ORDER

Magistrate Judge Charles Weigle screened Plaintiff Farrugia's amended complaint (Doc. 9) under 28 U.S.C. § 1915A and recommends allowing Farrugia's claims to proceed. Doc. 12 at 7. In this Recommendation, the Magistrate Judge also recommends denying Farrugia's motion for preliminary injunction (Doc. 10), reasoning that Farrugia failed to demonstrate a substantial likelihood of prevailing on the merits of his claims. *Id.* No party objected.

The Court has reviewed the Magistrate Judge's Recommendation for clear error and, subject to the following amendment, adopts it.

The Defendants have filed a motion to dismiss, which is currently referred to Magistrate Judge Weigle, asserting that Farrugia failed to exhaust his administrative remedies. Doc. 17. This dispute is being briefed and is in discovery. See Docs. 23; 26. In the Court's discretion, it is premature to fully address Farrugia's motion for injunctive relief until the exhaustion issue is resolved. *Cf. McDaniel v. Crosby*, 194 F. App'x 610, 613-14 (11th Cir. 2006) (holding that district court did not abuse its discretion in denying preliminary injunction because plaintiff had not shown exhaustion of administrative remedies, and thus, likelihood of success on merits).

The Court accordingly **ADOPTS** the Recommendation **as amended** (Doc. 12); Farrugia's religious freedom and equal protection claims are allowed to proceed; and

Farrugia's motion for injunctive relief (Doc. 10) is accordingly **DENIED without prejudice**. Farrugia may refile his motion seeking injunctive relief if the Court resolves the question of exhaustion in his favor.

SO ORDERED, this 13th day of February, 2017.

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