

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

ROBERT L. CLARK,

Plaintiff,

v.

DR. COWENS, *et al.*,

Defendants.

CIVIL ACTION NO.
5:21-cv-00110-TES-CHW

ORDER

The Court adopted the Magistrate Judge's Report and Recommendation ("R&R") as to Clark's claims against Dr. Cowens and the Warden of Macon State Prison. *See* [Doc. 10]. However, the Court did not perform a *de novo* review of the "immediate injunction" portion of the R&R. *See* [Doc. 5, pp. 5–6]. The Magistrate Judge recommends that, to the extent Clark is requesting a preliminary injunction, it is due to be denied because Clark does not show a "substantial likelihood of success on the merits." [Doc. 5, p. 6]. Clark objects, arguing that an application of the factors in *McDonald's Corp. v. Robertson*, 147 F.3d 1301, 1306 (11th Cir. 1998) would warrant granting his request for preliminary injunction. [Doc. 9, pp. 3–4]. The Court will thus review this portion of the Magistrate Judge's R&R *de novo*. *See* 28 U.S.C. § 636(b)(1).

Clark requests that the Court issue an injunction that the “[D]efendants be held in contempt,” a sanction of “\$300,000.00 . . . be paid to the [P]laintiff,” and the Court issue “five subpoenas for evidence needed from the [D]efendants.” [Doc. 3, pp. 1–2].

A Court should only grant a preliminary injunction if the movant

shows the following: (1) substantial likelihood of success on the merits; (2) irreparable injury will be suffered unless the injunction issues; (3) the threatened injury to the movant outweighs whatever damage the proposed injunction may cause the opposing party; and (4) if issued, the injunction would not be adverse to the public interest.

McDonald’s Corp. v. Robertson, 147 F.3d 1301, 1306 (11th Cir. 1998) (citations omitted).

Because Clark does not show a “substantial likelihood of success on the merits,” *id.*, the “extraordinary and drastic” remedy of a preliminary injunction is due to be denied. *All Care Nursing Serv., Inc. v. Bethesda Mem. Hosp., Inc.*, 887 F.2d 1535, 1537 (11th Cir. 1989) (holding that a preliminary injunction is not to be granted if any one of the four elements is not satisfied). Therefore, the Court **ADOPTS** the Magistrate Judge’s recommendation that Clark’s Motion for Immediate Injunction [Doc. 3] be **DENIED**.¹

SO ORDERED, this 3rd day of June, 2021.

S/Tilman E. Self, III

TILMAN E. SELF, III, JUDGE
UNITED STATES DISTRICT COURT

¹ Clark also “opposes the order of referral and does not consent to a Magistrate Judge conducting any proceedings in a jury or non jury civil matter” and cites to 28 U.S.C. § 636(c)(1). *See* [Doc. 8]. The Court **DENIES** this motion [Doc. 8]. Pursuant to 28 U.S.C. § 636(b)(1), the Magistrate Judge may make recommendations to the Court for the disposition of motions for injunctive relief and motions to dismiss a case or for summary judgment, among others. 28 U.S.C. § 636(c) is not applicable here.