

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

MIKE REDFORD,

Plaintiff,

v.

1:14-cv-2043-WSD

JUDGE ROBERT W. JAMES,

Defendant.

OPINION AND ORDER

This matter is before the Court on Magistrate Judge Janet F. King’s Final Report and Recommendation [2] (“R&R”). The R&R considers Plaintiff Mike Redford’s (“Plaintiff”) Complaint for Mandamus Relief [1] (“Complaint”). The Magistrate Judge recommended that Plaintiff be denied *in forma pauperis* status and that his Complaint be dismissed without prejudice.

I. BACKGROUND

On June 27, 2014, Plaintiff, a prisoner incarcerated in the Douglas County Jail in Douglasville, Georgia, filed his Complaint. Plaintiff seeks a writ of mandamus compelling Judge Robert W. James, a Douglas County Judge, to rule on several outstanding pretrial motions in his pending state court criminal action.

On July 10, 2014, the Magistrate Judge recommended that the Court deny Plaintiff *in forma pauperis* status and dismiss Plaintiff's Complaint pursuant to 28 U.S.C. § 1915(g), on the grounds that Plaintiff, while incarcerated, previously filed at least three civil actions that have been dismissed as frivolous, malicious, or for failure to state a claim.

On July 18, 2014, Plaintiff filed his objections [4] ("Objections") to the R&R. Plaintiff's Objections do not address the Magistrate Judge's reasons for dismissing Plaintiff's Complaint, and instead assert generic arguments about his right to access to the courts.

II. DISCUSSION

A. Legal Standard

After conducting a careful and complete review of the findings and recommendations, a district judge may accept, reject, or modify a magistrate judge's report and recommendation. 28 U.S.C. § 636(b)(1); Williams v. Wainwright, 681 F.2d 732, 732 (11th Cir. 1982), cert denied, 459 U.S. 1112 (1983). A district judge "shall make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). With respect to those findings and recommendations to which a party has not asserted objections, the district judge

must conduct a plain error review of the record. United States v. Slay, 714 F.2d 1093, 1095 (11th Cir. 1983).

B. Analysis

As Plaintiff has not objected to the Magistrate Judge's specific findings and conclusion, the Court reviews the Magistrate Judge's determination for plain error. See Slay 714 F.2d at 1095.

Section 1915(g) states:

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action or proceeding under this section if the prisoner has, on 3 or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

28 U.S.C. § 1915(g). Plaintiff, while incarcerated, has brought at least three actions that were dismissed as frivolous,¹ and Plaintiff has not established that he is under imminent danger of serious physical injury. The Magistrate Judge properly determined that Plaintiff's *in forma pauperis* Complaint was barred by § 1915(g), and that it should be dismissed without prejudice. See Dupree v. Palmer, 284 F.3d

¹ Redford v. Lewis, 1:04-CV-1636-WBH; Redford v. Hamil, et al., 1:04-CV-933-WBH; and Redford v. Gwinnett County Judicial Circuit, et al., 1:02-CV-2739-WBH

1234, 1236 (11th Cir. 2002). The Court finds no plain error in these findings. See Slay, 714 F.2d at 1095.

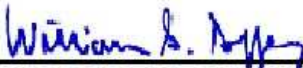
III. CONCLUSION

For the foregoing reasons,

IT IS HEREBY ORDERED that Magistrate Judge Janet F. King's Final Report and Recommendation [2] is **ADOPTED**.

IT IS FURTHER ORDERED that Plaintiff is **DENIED** *in forma pauperis* status and Plaintiff's Complaint [1] is **DISMISSED WITHOUT PREJUDICE**.

SO ORDERED this 24th day of September, 2014.



WILLIAM S. DUFFEY, JR.
UNITED STATES DISTRICT JUDGE