

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA

FILED
U.S. DISTRICT COURT
AUGUSTA DIV.

2018 AUG 16 AM 9:48

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SO. DIST. OF GA.

DUBLIN DIVISION

MANETIRONY CLERVRAIN,)
)
Plaintiff,)

v.)

CV 318-028

STACEY STONE; MICHAEL CARTER;)
STEVEN CONRY; JOHN BAXTER;)
LYNETTE HARRIS; AMANDA KIRLEY;)
F. FASSON; S. DAMMONS; A. WRIGHT;)
J. COLEMAN; DAVID CHURCHILL;)
WILLIAM DALIUS; BEN ELROD;)
BRIAN K. FERELL; BRIAN HAMONDS;)
NATASHA METCALF; JOHN PFEIFFER;)
BRAD REGENS; JOHN ROBINSON;)
DAREN SWENSON; BART VERHULS;)
JOHN PAUL WOODEN;)
and JOE DOES 1 & 2,)
Defendants.)

ORDER

After a careful, *de novo* review of the file, the Court concurs with the Magistrate Judge’s Report and Recommendation (“R&R”), to which objections have been filed (doc. no. 37).¹ Plaintiff also filed a “Motion for Judicial Panel for Mu[lti]district Litigation Pursuant

¹Plaintiff’s objections were also docketed as a “Motion for Consideration” of the Magistrate Judge’s R&R. (Doc. no. 36.) Because the Court has considered Plaintiff’s filing as objections to the R&R, Plaintiff’s “motion” is **MOOT**. (*Id.*)

to 28 U.S.C. § 1407 and 5 U.S.C. § 504,” (doc. no. 38), and “Motion for a Notice of Appeal,” (doc. no. 39).

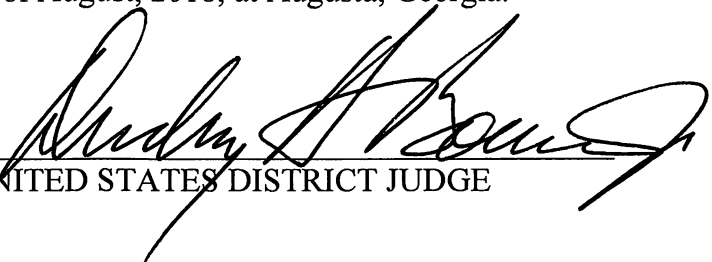
First, Plaintiff cannot prevent this Court from dismissing his amended complaint for failure to state a claim by seeking to initiate a transfer pursuant to 28 U.S.C. § 1407. A party initiates proceedings for the transfer of an action for coordinated or consolidated pretrial proceedings by filing a motion with the United States Judicial Panel on Multidistrict Litigation and a copy of the motion in the district court in which the moving party’s action is pending. 28 U.S.C. § 1407(c)(ii). Nevertheless, the pendency of such a motion “does not affect or suspend orders . . . in any pending federal district court action and does not limit the pretrial jurisdiction of that court.” Rules of Procedure of the United States Judicial Panel on Multidistrict Litigation, Rule 2.1(d) (2016), available at http://www.jpml.uscourts.gov/sites/jpml/files/Panel%20Rules-Index_Copy_Rev-5-23-2018_Effective-10-4-2016_.pdf. Accordingly, Plaintiff’s “Motion for Judicial Panel for Mu[l]tidistrict Litigation Pursuant to 28 U.S.C. § 1407 and 5 U.S.C. § 504” is **MOOT**. (Doc. no. 38.)

Second, Plaintiff may not appeal a R&R, which has not been rendered final by the District Court. Webb v. Warden, No. 18-11340-E, 2018 WL 3244459, at *1 (11th Cir. June 20, 2018) (“The report does not qualify as final and appealable because the district court had not yet rendered it final when [the plaintiff] filed the notice of appeal.”) (citing 28 U.S.C. § 1291; Perez-Priego v. Alachua Cty. Clerk of Ct., 148 F.3d 1272, 1273 (11th Cir. 1998)). Accordingly, the Court **DENIES** Plaintiff’s “Motion for a Notice of Appeal.” (Doc. no. 39.)

Accordingly, the Court **ADOPTS** the Report and Recommendation of the Magistrate Judge as its opinion, **OVERRULES** Plaintiff’s objections, (doc. no. 37), **DISMISSES**

Plaintiff's complaint for failure to state a claim upon which relief can be granted, and
CLOSES this civil action.

SO ORDERED this 16th day of August, 2018, at Augusta, Georgia.


UNITED STATES DISTRICT JUDGE