

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

FILED  
U.S. DISTRICT COURT  
AUGUSTA DIV.

2021 JAN -6 A 11: 52

DUBLIN DIVISION

CLERK J. Hodge  
SO. DIST. OF GA.

SHERWIN S. PERKINS, )

Plaintiff, )

v. )

CV 320-065

ANTONIO CALDWELL, Warden; )

JAMES BLAIR, Deputy Warden; )

FAIRVIEW PARK HOSPITAL; )

KENNETH COWENS; BILLY )

McKENZIE, Inmate; JAMES MITCHEL, )

Inmate; UNIT MANAGER GIBBONS; )

PA OLIVER; HALL, Director of Nursing; )

LATISHA FRANKLIN, Deputy Warden; )

TIMOTHY C. WARD, Commissioner; )

MEDICAL COLLEGE OF GEORGIA; )

UNIT MANAGER JACKSON; JOHNSON )

MESSER, Deputy Warden; CHIEF )

COUNSELER BRAGG; and ALFRED )

LUNDY, Inmate, )

Defendants. )

**ORDER**

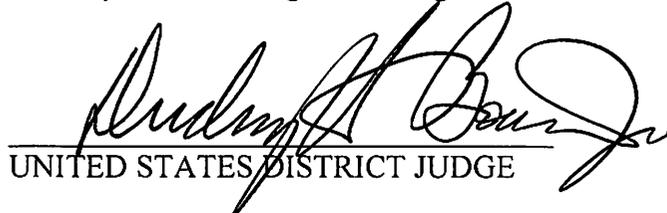
After a careful, *de novo* review of the file, the Court concurs with the Magistrate Judge’s Report and Recommendation (“R&R”), to which objections have been filed. (Doc. no. 12). The Magistrate Judge recommended dismissing the case without prejudice because Plaintiff has three strikes under 28 U.S.C. § 1915(g) and as a sanction for Plaintiff providing dishonest information about his filing history. (See doc. no. 8.) In his objections, Plaintiff asserts he did not intend to proceed *in forma pauperis* (“IFP”). (Doc. no. 12, p. 1.)

However, Plaintiff never paid the initial filing fee, despite clearly being aware of his obligation to do so. (Id., at 2.) Rather than paying the filing fee, Plaintiff now requests the Court allow the case to proceed and send an Order to the business department at Johnson State Prison ordering them to pay the filing fee. (Id.) The Court declines to do so. As stated in the Magistrate Judge's R&R, if Plaintiff wishes to proceed with the claims raised in this lawsuit, he must initiate a new lawsuit, which would require submission of a new complaint. (Doc. no. 8, p. 6 (citing Dupree v. Palmer, 284 F.3d 1234, 1236 (11th Cir. 2002).)

Additionally, Plaintiff concedes he filed the undisclosed cases identified in the Magistrate Judge's R&R, but asks the Court to excuse his mistakes. (Doc. no. 12). As the case law cited in the R&R makes clear, failing to disclose prior filing history will not be tolerated, and the Eleventh Circuit has repeatedly approved of dismissing a case without prejudice as a sanction. (See doc. no. 8, pp. 4-5.) Should Plaintiff decide that he wants to pursue his claims in the future, nothing in this Order adopting the recommendation for dismissal puts any additional restrictions on Plaintiff's future filing activities beyond those already in place for any prisoner filing a new case in federal court.

Accordingly, the Court **OVERRULES** Plaintiff's objections, **ADOPTS** the Report and Recommendation of the Magistrate Judge as its opinion, **DENIES** Plaintiff's request to proceed IFP, (doc. no. 2), **DISMISSES** this action without prejudice, and **CLOSES** this civil action.

SO ORDERED this 6<sup>th</sup> day of January, 2021, at Augusta, Georgia.

  
UNITED STATES DISTRICT JUDGE