

In the United States District Court
For the Southern District of Georgia
Waycross Division

FILED
Scott L. Poff, Clerk
United States District Court
By casbell at 8:46 am, Mar 08, 2017

JOSHUA BRIAN RANDOLPH,

Plaintiff,

v.

TOM GRAMIAK; EDWINA JOHNSON; and
CHAPLAIN FLYNN,

Defendants.

*
*
*
*
*
*
*
*
*

CIVIL ACTION NO.: 5:17-cv-1

ORDER

Presently before the Court is Plaintiff Joshua Brian Randolph's ("Randolph") Objections to the Magistrate Judge's Report and Recommendation dated January 5, 2017. Dkt. No. 5. Randolph objects to the Magistrate Judge's Recommendation that this Court dismiss his claims for abuse of judicial process. Id. at p. 1. Plaintiff states that he erroneously reported on his Section 1983 form Complaint that he had never filed any lawsuits in state or federal court relating to the conditions of his imprisonment because he misunderstood the question. Id. at p. 2. Plaintiff further represents that he failed to answer the question correctly because he did not fully read the page on

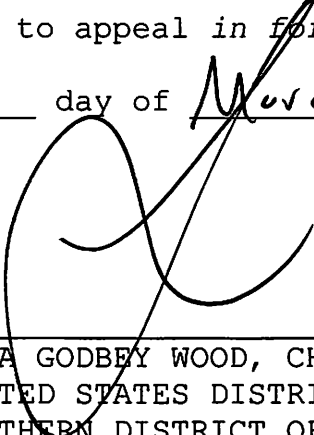
which that question was located. Id. at pp. 2-3.

As the Magistrate Judge explained in the Report and Recommendation, "Federal Rule of Civil Procedure 11(c) permits a court to impose sanctions, including dismissal, for 'knowingly fil[ing] a pleading that contains false contentions.'" Dkt. No. 4, p. 4 (quoting Redmon v. Lake Cty. Sheriff's Office, 414 F. App'x 221, 225-26 (11th Cir. 2011) (citing Fed. R. Civ. P. 11(c))). The Magistrate Judge further explained that "[e]ven where a prisoner has later provided an explanation for his lack of candor, the Court has generally rejected the proffered reason as unpersuasive." Dkt. No. 4, p. 5 (citing Redmon, 414 F. App'x at 226 ("The district court did not abuse its discretion in concluding that Plaintiff's explanation for his failure to disclose the Colorado lawsuit—that he misunderstood the form—did not excuse the misrepresentation and that dismissal was a proper sanction.")) Therefore, Randolph's explanation that he did not understand or properly read the form is insufficient to overcome his lack of candor.

Accordingly, the Court **OVERRULES** Randolph's Objections. Dkt. No. 5. After an independent and *de novo* review of the entire record, the Court **CONCURS** with and **ADOPTS** the Magistrate Judge's Report and Recommendation, dkt. no. 4, as the opinion of the Court. Consequently, the Court **DISMISSES** Plaintiff's Complaint and **DIRECTS** the Clerk of Court to enter the

appropriate judgment of dismissal and to **CLOSE** this case. The Court **DENIES** Plaintiff leave to appeal *in forma pauperis*.

SO ORDERED, this 7 day of March, 2017.



LISA GODBEY WOOD, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA