IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 21-11893-C

TIMOTHY DEWAYNE LITTLEJOHN,

Plaintiff - Appellant,

versus

SGT. BOWMAN,
NURSE MUHAMAD,
SGT. VAUGHAN,

Defendants - Appellees,

SGT. WHEELER, et al.,

Defendants.

Appeal from the United States District Court
for the Northern District of Georgia

ENTRY OF DISMISSAL: Pursuant to the 11th Cir.R.42-1(b), this appeal is DISMISSED for want of prosecution because the appellant Timothy Dewayne Littlejohn has failed to pay the filing and docketing fees to the district court within the time fixed by the rules, effective June 29, 2021.

DAVID J. SMITH
Clerk of Court of the United States Court
of Appeals for the Eleventh Circuit

by: Walter Pollard, C, Deputy Clerk

FOR THE COURT - BY DIRECTION

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

Timothy Littlejohn,

Plaintiff,

v.

Case No. 1:20-cv-2758-MLB

Sergeant Bowman, et al.,

Defendants.

_____/

ORDER

This case comes before the Court on Plaintiff Timothy Littlejohn's six pending post-judgment motions. (Dkts. 69; 71; 72; 73; 74; 78.) After due consideration, the Court enters the following order.

Plaintiff, an inmate at the Cobb County Detention Center in Marietta, Georgia, is a prolific frequent filer who has initiated approximately forty actions in this Court. Because of his repeated, frivolous filings, he has long since run afoul of the "three strikes" provision of the Prison Litigation Reform Act, 28 U.S.C. § 1915(g), *see, e.g., Littlejohn v. Warren*, Civil Action No. 1:20-CV-3162-MLB (N.D. Ga.) (dismissed August 24, 2020, pursuant to § 1915(g)), and, as a result, he

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can no longer proceed in forma pauperis in this Court. Consequently, Plaintiff's sole option to pester litigants and waste court resources is to continue to file frivolous post-judgment motions in his dismissed cases as he has done here.

On December 31, 2020, (Dkt. 61) this Court granted Defendants' motion to dismiss (Dkt. 30) and dismissed the instant action under Fed. R. Civ. P. 11(c) because of Plaintiff's abuse of judicial process. He then filed a motion for reconsideration (Dkt. 61) which this Court denied (Dkt. 68) after determining that Plaintiff had not met the standard for reconsideration. *See Bryan v. Murphy*, 246 F. Supp. 2d 1256, 1258 (N.D. Ga. 2003); *Wilson v. Regions Fin. Corp.*, 347 F. Supp. 3d 1241, 1245 (N.D. Ga. 2016).

Plaintiff has now filed another, successive motion for reconsideration (Dkt. 71) along with motions to amend (Dkt. 69), for discovery (Dkt. 72), for an ex parte meeting (Dkt. 73), to recuse the undersigned (Dkt. 74), and, again, to amend (Dkt. 78). Plaintiff's motion for reconsideration is materially identical to his first such motion, and this Court again concludes that Plaintiff has failed to demonstrate that he is entitled to relief.

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In his motion to recuse, Plaintiff asserts that this Court dismissed this action because Plaintiff did not file a response to Defendant's motion to dismiss while, he claims, he did file a response. He further contends that "this case is political because of how much money it is and the county is pulling string to the courts case. . . . This is clear case of corruption on file, and a miscarriage of justice since Plaintiff is a victum of mail fraud." (Dkt. 74 at 1 [generally, sic].) This Court first points out that this action was clearly dismissed because of Plaintiff's abuse of the judicial process because Plaintiff failed to disclose all of his prior cases on his civil complaint form. More generally, this Court could not identify a valid basis for recusal under 28 U.S.C. 455(b). Adverse rulings against a party does present good cause to recuse or disqualify a judge. Thus, Plaintiff has not shown that he is entitled to recusal.

Finally, in response to Plaintiff's post-judgment motions to amend, "a plaintiff does not have a right to amend as a matter of course after dismissal of the complaint." *Czeremcha v. Int'l Ass'n of Machinists & Aerospace Workers, AFL-CIO*, 724 F.2d 1552, 1554 (11th Cir. 1984). While leave to amend should be freely given after dismissal of a complaint, a motion to amend is "inappropriate . . . if the court has clearly

indicated . . . that dismissal of the complaint also constitutes dismissal of the action." *Id.* at 1556 n.6. In the order adopting the R&R, the Court clearly dismissed this action and entered judgment against Plaintiff. (Dkts. 61; 62.)

"Post-judgment, the plaintiff may seek leave to amend if he is granted relief under Rule 59(e) or Rule 60(b)(6)." *United States ex rel. Atkins v. McInteer*, 470 F.3d 1350, 1361 n.22 (11th Cir. 2006) (internal citations omitted). However, this Court has already determined that Plaintiff is not entitled to relief with respect to his motion for reconsideration.

For the foregoing reasons, Plaintiff's motion for reconsideration (Dkt. 71), his motion to recuse (Dkt. 74), and his motions to amend (Dkt. 69, 78) are **DENIED**. Plaintiff's motions for discovery (Dkt. 72) and for an ex parte meeting (Dkt. 73) are **DENIED** as moot. Having now found that Plaintiff has repeatedly filed frivolous and vexatious motions in this matter, the Clerk is **DIRECTED** not to place any further motions or other papers from Plaintiff on the docket in this closed action but to return them to Plaintiff with a copy of this order.

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SO ORDERED this 11th day of May, 2021.

MICHAEL L. BROWN
UNITED STATES DISTRICT JUDGE

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[redacted]

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

Timothy Littlejohn,

Plaintiff,

Case No. 1:20-cv-2758-MLB

v.

Sergeant Bowman, et al.,

Defendants.

_____/

ORDER

Plaintiff Timothy Littlejohn, an inmate at the Cobb County Adult Detention Center in Marietta, Georgia, filed the instant 42 U.S.C. § 1983 action complaining that several officers and a nurse at the jail forcefully, and against his will, injected him with medication. This Court previously permitted Plaintiff's claims against Defendants Bowman, Muhamad, and Vaughan to proceed. (Dkt. 9.) Those Defendants move to dismiss. (Dkts. 26; 30.)

Before the Court is the Magistrate Judge's Non-Final Report and Recommendation ("R&R") (Dkt. 43), recommending that Defendants' motions to dismiss be denied. The Magistrate Judge also denied

Plaintiff's motions for entry of default and default judgment (Dkts. 31; 36), motion not to extend deadline (Dkt. 38), and motion to appoint a special master (Dkt. 42). The parties filed objections to the R&R. (Dkts. 46; 47; 50.) Plaintiff also filed three motions to amend his complaint. (Dkts. 45; 48; 49.)

I. Legal Standard

A district judge has broad discretion to accept, reject, or modify a magistrate judge's proposed findings and recommendations. *United States v. Raddatz*, 447 U.S. 667, 680 (1980). Under 28 U.S.C. § 636(b)(1), the Court reviews any portion of the R&R that is the subject of a proper objection on a de novo basis and any non-objected portion under a clearly erroneous standard. "Parties filing objections to a magistrate's report and recommendation must specifically identify those findings objected to. Frivolous, conclusive, or general objections need not be considered by the district court." *Marsden v. Moore*, 847 F.2d 1536, 1548 (11th Cir. 1988).

II. Defendants Bowman's and Vaughan's Motion to Dismiss

Defendants Bowman and Vaughan argue Plaintiff's complaint should be dismissed as a sanction because Plaintiff failed to disclose his litigation history. (Dkt. 30-1 at 1.) Plaintiff is a prolific frequent filer

who has filed more than thirty cases in this Court, at least three of which have been dismissed as frivolous, and Plaintiff thus may no longer proceed *in forma pauperis* in federal court under the "three strikes" provision of the Prison Litigation Reform Act, 28 U.S.C. § 1915(g).

In their motion to dismiss, Defendants Bowman and Vaughan point out that, in his initial complaint and his first amended complaint, Plaintiff listed only one prior federal lawsuit that he had filed, when, at the time that he filed his complaint, he had filed at least twenty actions in this Court. (Dkt. 30-1 at 4.) A district court may impose sanctions if a party knowingly files a pleading that contains false statements, Fed. R. Civ. P. 11(c), and it is well within a court's discretion to dismiss a prisoner's complaint for abuse of process when the prisoner files a complaint that fails to fully disclose all of his prior cases on the civil complaint form. *See Rivera v. Allin*, 144 F.3d 719, 731 (11th Cir. 1998) (holding that dismissal of an action without prejudice as a sanction for a pro se prisoner's failure to disclose the existence of a prior lawsuit, where that prisoner was under penalty of perjury, was proper), *abrogated in part on other grounds by Jones v. Bock*, 549 U.S. 199 (2007); *Jackson v. Fla. Dep't of Corr.*, 491 F. App'x 129 (11th Cir. 2012) (finding the district

court did not abuse its discretion by dismissing a prisoner's complaint for abuse of judicial process based on his failure to disclose at least one federal action dismissed prior to service); *Redmond v. Lake Cnty. Sheriff's Off.*, 414 F. App'x 221 (11th Cir. 2011) (affirming dismissal for abuse of judicial process when prisoner failed to disclose several previous lawsuits filed in district court).

Plaintiff did not respond to the motion to dismiss or otherwise attempt to explain or provide an excuse for why he provided materially false information in his complaint form. Instead, he filed a motion for leave to file an amended complaint that provided full disclosure of his litigation history. In the R&R, the Magistrate Judge acknowledged that this Court could dismiss the complaint without prejudice as a proper sanction for Plaintiff's failure to disclose his litigation history on his complaint. The Magistrate Judge, however, determined that, because Plaintiff had amended his complaint after Defendants filed their motion to dismiss to add his litigation history, the Court should permit the amendment and deny the motion to dismiss.

The Court disagrees. As Defendants correctly point out in their objections, allowing Plaintiff to amend his complaint after he is informed

that he filed an abusive complaint "would serve to overlook his abuse of the judicial process." *Hood v. Tompkins*, 197 F. App'x 818, 819 (11th Cir. 2006); *see also Johnson v. Burch*, No. 5:19-cv-77, 2019 WL 4926617, at *3 (N.D. Fla. July 19, 2019) ("A mere admonition also would not deter Plaintiff or others. Furthermore, dismissal without prejudice would serve as a warning to Plaintiff and others that future false responses to courts might result in more substantial sanctions."). Given Plaintiff's extensive history of filing numerous vexatious and frivolous pleadings and motions in this Court, as well as his failure to even attempt to justify his plainly false pleadings, it is clear that the sanction of dismissal without prejudice is proper in this instance. The Court thus grants Defendants Bowman's and Vaughan's motion to dismiss.[1]

III. Conclusion

Accordingly, Defendants Bowman's and Vaughan's Objections to the R&R (Dkt. 47) are **SUSTAINED**, and Defendant Muhamad's and Plaintiff's Objections to the R&R (Dkts. 46; 50) are **OVERRULED** as

[1] Because this Court has decided to dismiss the complaint for Plaintiff's abuse of the judicial process, Defendant Muhamad's motion to dismiss, Defendant Muhamad's objections, Plaintiff's objections, and Plaintiff's motions to amend are all moot.

moot. The Court hereby **ADOPTS IN PART** the Magistrate Judge's Report and Recommendation (Dkt. 43), **GRANTS** Defendants Bowman's and Vaughan's Motion to Dismiss (Dkt. 30), **DENIES AS MOOT** Defendant Muhamad's Motion to Dismiss (Dkt. 26), and **DISMISSES WITHOUT PREJUDICE** the complaint pursuant to Federal Rule of Civil Procedure 11 for Plaintiff's abuse of the judicial process. The Court also **DENIES AS MOOT** Plaintiff's Motions to Amend Complaint (Dkts. 45; 48; 49), Defendants' Motions for Extension of Time (Dkts. 55; 60), Plaintiff's Motions for Summary Judgment (Dkts. 56; 57), Plaintiff's Motion to Enjoin Parties (Dkt. 58), and Defendant Muhamad's Motion for Joinder (Dkt. 59). The Clerk is **DIRECTED** to close this action.

SO ORDERED this 31st day of December, 2020.

MICHAEL L. BROWN
UNITED STATES DISTRICT JUDGE

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

TIMOTHY DEWAYNE, LITTLEJOHN, Inmate No. 001074022, Plaintiff,	:	PRISONER CIVIL RIGHTS 42 U.S.C. §1983
v.	:	
SERGEANT BOWMAN; *et al.*, Defendants.	:	CIVIL ACTION NO. 1:20-CV-2758-MLB-JKL

NON-FINAL REPORT AND RECOMMENDATION

Plaintiff, incarcerated at the Cobb County Adult Detention Center in Marietta, Georgia, filed this *pro se* civil rights complaint under 42 U.S.C. §1983. The matter is before the Court for a frivolity screening pursuant to 28 U.S.C. §1915A.

I. 28 U.S.C. 1915A FRIVOLITY REVIEW

Pursuant to 28 U.S.C. §1915A, a federal court is required to conduct an initial screening of a prisoner complaint to determine whether the action is: (1) frivolous or malicious; (2) fails to state a claim on which relief may be granted; or (3) seeks monetary relief against a defendant who is immune from such relief. 28 U.S.C. §§1915A(b). A claim is frivolous when it "lacks an arguable basis either in law or in fact." *Bingham v. Thomas*, 654 F.3d 1171, 1175 (11th Cir. 2011) (internal quotation marks and citations omitted). To state a claim, a pleading must contain a "short and plain statement of the claim showing that the pleader is entitled to

relief[.]" Fed. R. Civ. P. 8(a)(2). "A plaintiff . . . must plead facts sufficient to show that [his] claim has sufficient plausibility" and to inform the defendant of "the factual basis" for the complaint. *Johnson v. City of Shelby, Miss.*, 574 U.S. 10, 135 S. Ct. 346, 347 (2014).

In reviewing whether a plaintiff has stated a claim, the Court presumes the truth of a plaintiff's non-frivolous factual allegations, construing them in the plaintiff's favor. *Gissendaner v. Commissioner, Ga. Dep't of Corr.*, 803 F.3d 565, 578 (11th Cir. 2015). Additionally, the Court holds *pro se* pleadings to a less stringent standard than pleadings drafted by lawyers, *Bingham*, 654 F.3d at 1175, but "this leniency does not give a court license to serve as *de facto* counsel for a party, or to rewrite an otherwise deficient pleading in order to sustain an action." *Campbell v. Air Jamaica Ltd.*, 760 F.3d 1165, 1168-69 (11th Cir. 2014) (internal quotation marks and citation omitted).

II. DISCUSSION

A. Plaintiff's Allegations[1]

Plaintiff has named as Defendants Cobb County Correctional Officers Sergeant Bowman, Sergeant Wheeler, Sergeant Vaugh, Colonel Sander, Commander Wesenberger, and Nurse Muhamad. Plaintiff complains that after he

[1] The factual allegations are taken from Plaintiff's complaint [Doc. 1], and are presumed true for purposes of the §1915A screening. *See Hughes v. Lott*, 350 F.3d 1157, 1159-60 (11th Cir. 2003).

was attacked by an officer and placed into a padded cell,[2] on May 27, 2020, Sergeant Vaugh and Sergeant Bowman heard Plaintiff refuse a "how dow" shot.[3] Nurse Muhamad, who was administering the medication, lied to Plaintiff and told Plaintiff that it was ordered by the doctor. Sergeant Vaugh and Sergeant Bowman held Plaintiff down while Nurse Muhamad administered the medicine to Plaintiff. Plaintiff seeks monetary damages.

B. Analysis of Plaintiff's Allegations

Under the Due Process Clause of the Fourteenth Amendment, pretrial detainees possess "a significant liberty interest in avoiding the unwanted administration of antipsychotic drugs[.]" *Washington v. Harper*, 494 U.S. 210, 227 (1990). However, "the Due Process Clause permits the State to treat a prison inmate who has a serious mental illness with antipsychotic drugs against his will, if the inmate is dangerous to himself or others and the treatment is in the inmate's medical interest." *Id. See also Grider v. Cook*, 590 F. App'x 876, 882 (11th Cir. 2014) ("[U]nder appropriate factual circumstances, the government at times may force an individual to take psychiatric medications against his will[.]"). Under *Harper*, forcing antipsychotic drugs is impermissible absent a finding of overriding

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[2] Plaintiff already filed a complaint regarding this alleged attack. *See Littlejohn v. Coleman*, Civil Action No. 1:20-CV-2601-MLB-JKL.

[3] I presume that Plaintiff means "Haldol," which is a psychiatric, or anti-psychotic, medication. *Spaulding v. Poitier*, 548 F. App'x 587, 589 (11th Cir. 2013).

justification and a determination of medical appropriateness. *Riggins v. Nevada*, 504 U.S. 127, 135 (1992). And *Harper* mandates that before the state is permitted to administer any such psychiatric medications involuntarily, the prisoner is entitled to receive certain process.[4] *Grider*, 590 F. App'x at 882.

Presuming Plaintiff's facts to be true at this early stage of the proceedings, it does not appear that there was any finding of overriding justification and medical appropriateness; nor does it appear that Plaintiff received any process before Sergeants Bowman and Vaugh held him down while Nurse Muhamad forced him to undergo involuntary medical treatment. As a result, this claim should proceed against Defendants Bowman, Vaugh, and Muhamad. *See, e.g., Griffin v. Bryant*, No. 5:17-CT-03173-D, 2018 WL 7982081, at *2 (E.D.N.C. Nov. 21, 2018) (allowing plaintiff's claim that defendants involuntarily medicated him to proceed on frivolity) *Cooper v. Hollis*, No. 7:05-CV-112 (HL), 2006 WL 3791684, at *5 (M.D. Ga. Dec. 22, 2006) (allowing to proceed on frivolity plaintiff's claim that defendants forced him to take mental health drugs that he did not need).

Plaintiff, however, fails to state a claim against Sergeant Wheeler, Colonel Sander, and Commander Wesenberger, as Plaintiff has not alleged that any of those

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[4] Specifically, the state must find that the psychotropic medication is in the prisoner's medical interests, the tribunal or panel that reviews a treating physician's decision to prescribe forced medications must exercise impartial and independent judgment, and the prisoner must be permitted to argue before a review tribunal that he does not need forced medications. *Harper*, 494 U.S. at 222, 227, 233.

officers acted, or failed to act, in a manner that violated Plaintiff's constitutional rights. *See Douglas v. Yates*, 535 F.3d 1316, 1322 (11th Cir. 2008) ("[A] complaint will be held defective . . . if [it] fails to connect the defendant with the alleged wrong.") (citation omitted).

II. CONCLUSION

For the foregoing reasons, **IT IS RECOMMENDED** that Plaintiff's due process claim that he was involuntarily administered medication be **ALLOWED TO PROCEED** against Defendants Bowman, Vaugh, and Muhamad.

IT IS FURTHER RECOMMENDED that the remaining Defendants be **DISMISSED** under §1915A.

SO RECOMMENDED this 9th day of July, 2020.

JOHN K. LARKINS III
UNITED STATES MAGISTRATE JUDGE

Additional material from this filing is available in the Clerk's Office.