UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No: 25-2482

Terry Antonio Lee

Plaintiff - Appellant

v.

Sarah Huckabee Sanders, Governor of State (originally named as Sarah Huckabee); Board of Corr; Dexter Payne, Director; Thomas Rowland, Supervisor, Internal Affairs; William Straughn, Assistant Director; James Shipman, Warden, Tucker Max Unit; Maurice Culcalger, Assistant Warden, Tucker Max Unit; Joseph P. Mahoney, Major, Tucker Max Unit; Kevin Patterson, Sgt., Tucker Max Unit; Blackmon, Sgt., Field Rider, Tucker Max Unit; Brooks, Cpl., Tucker Max Unit; Burnett, Cpl., Tucker Max Unit; Matthew Elias, Sgt., Tucker Max Unit; C. Jackson, Sgt., Tucker Max Unit; Charlie Thomason, Sgt., Tucker Max Unit; Terri Hollingsworth, Pulaski Circuit Court Clerk; Tim Griffin, Attorney General; Jordan B. Slayden, Lt., Tucker Max Unit; Karen Davis, Sgt., Tucker Max Unit; Julius John Gerard, IV, Assistant Attorney General; Leigh Patterson, Prosecuting Attorney/Deputy; Haley Trantham, PREA; Numery, Sgt., Tucker Max Unit; Jeremy Lee, Sgt., Tucker Max Unit; J. Sundine, Sgt., Tucker Max Unit; A. Jackson, Sgt., Tucker Max Unit; Clark, Captain, Tucker Max Unit; Cantrell Bass, Captain, Tucker Max Unit; Karma Throne, Lt., Tucker Max Unit; Christopher Grant, Cpl., Tucker Max Unit; Cynthia D. Conway, Lt., Tucker Max Unit; Nicholas D. Swiney, Lt., Tucker Max Unit; Melvin Wooten, Sgt., Tucker Max Unit (originally named as Melvin Wooten); Justin D. Coleman, Cpl., Tucker Max Unit; Tyraneka Sims, Sgt., Tucker Max Unit; Brandeisjha M. Burnett, Classification Officer; K. Love, Business Manager; Jaqueline Davis-Smith, Program specialist/supervisor law library, Tucker Max Unit; Isom, Sgt., Tucker Max; Spencer, sick call nurse, Tucker Max Unit; Seamster, APN, Tucker Max Unit; C. Blizard, Tucker Max Unit; James Beck, Doctor, Tucker Max Unit; Aundrea Culclager, Director; Chris Horan, MD., WellPath; WellPath; M. Agil, Health Service Administrator, WellPath

Defendants - Appellees

Appeal from U.S. District Court for the Eastern District of Arkansas - Central
(4:24-cv-00418-KGB)

JUDGMENT

Before SHEPHERD, KELLY and STRAS, Circuit Judges.

The court has reviewed the original file of the United States District Court. Appellant's application to proceed in forma pauperis is granted. The full $605 appellate filing and docketing

fees are assessed against the appellant. Appellant may pay the filing fee in installments in accordance with 28 U.S.C. § 1915(b). The court remands the assessment and collection of those fees to the district court.

It is ordered by the court that the judgment of the district court is summarily affirmed. See Eighth Circuit Rule 47A(a).

October 15, 2025

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Susan E. Bindler

UNITED STATES COURT OF APPEALS
FOR THE EIGHTH CIRCUIT

No: 25-2482

Terry Antonio Lee

Appellant

v.

Sarah Huckabee Sanders, Governor of State (originally named as Sarah Huckabee), et al.

Appellees

Appeal from U.S. District Court for the Eastern District of Arkansas - Central
(4:24-cv-00418-KGB)

ORDER

The petition for rehearing is denied as overlength.

January 09, 2026

Order Entered at the Direction of the Court:
Clerk, U.S. Court of Appeals, Eighth Circuit.

/s/ Susan E. Bindler

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

TERRY LEE,
ADC #120960 **PLAINTIFF**

v. **Case No. 4:24-cv-00418-KGB**

SARAH HUCKABEE SANDERS
Governor of State, *et al.* **DEFENDANTS**

ORDER

Before the Court is a motion to alter or amend judgment filed by *pro se* plaintiff Terry Lee (Dkt. No. 28).

Motions to alter or amend judgment under Federal Rule of Civil Procedure 59(e) serve "the limited function of correcting 'manifest errors of law or fact or to present newly discovered evidence.'" *United States v. Metro. St. Louis Sewer Dist.*, 440 F.3d 930, 933 (8th Cir. 2006) (quoting *Innovative Home Health Care v. P. T.-O. T. Assoc. of the Black Hills*, 141 F.3d 1284, 1286 (8th Cir. 1998)). Furthermore, "[s]uch motions cannot be used to introduce new evidence, tender new legal theories, or raise arguments which could have been offered or raised prior to entry of judgment." *Id.* (quoting *Innovative Home Health Care*, 141 F.3d at 1286). District courts thus "ha[ve] broad discretion in determining whether to grant or deny a motion to alter or amend judgment pursuant to Rule 59(e)." *Briscoe v. Cnty. of St. Louis*, 690 F.3d 1004, 1015 (8th Cir. 2012) (quoting *id.*).

In this case, Mr. Lee's motion breaks no new ground. For the reasons stated in the Court's Orders dated October 3, 2024, and January 21, 2025 (Dkt. Nos. 19; 25), the Court denies the motion (Dkt. No. 28). The Court grants Mr. Lee's motion for status update (Dkt. No. 29) and considers this Order sufficient to apprise Mr. Lee of the status of this case.

It is so ordered this 17th day of July, 2025.

Kristine G. Baker
Chief United States District Judge

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

TERRY LEE
ADC #120960 PLAINTIFF

V. Case No. 4:24-CV-00418-KGB-BBM

SARAH HUCKABEE,
Governor of State, *et al.* DEFENDANTS

RECOMMENDED DISPOSITION

The following Recommended Disposition ("Recommendation") has been sent to Chief United States District Judge Kristine G. Baker. You may file written objections to all or part of this Recommendation. If you do so, those objections must: (1) specifically explain the factual and/or legal basis for your objection; and (2) be received by the Clerk of this Court within fourteen (14) days of the date of this Recommendation. If you do not file objections, Chief Judge Baker may adopt this Recommendation without independently reviewing all of the evidence in the record. By not objecting, you may waive the right to appeal questions of fact.

I. INTRODUCTION

On May 10, 2024, Plaintiff Terry Lee ("Lee"), a prisoner currently incarcerated in the Tucker Maximum Security Unit of the Arkansas Division of Correction ("ADC"), filed a *pro se* 290-page Complaint, alleging that 52 defendants violated his constitutional rights. (Doc. 2). The Court conducted an initial screening of the Complaint pursuant to the Prison

Litigation Reform Act ("PLRA") and noted several deficiencies.[1] (Doc. 4). Lee was given leave to file an amended complaint and placed on notice that an amended pleading would supersede his previous Complaint. *Id.* at 5 (citing *In re Atlas Lines, Inc.*, 209 F.3d 1064, 1067 (8th Cir. 2000)).

On June 13, 2024, Lee filed an Amended Complaint, (Doc. 10), and on July 1, 2024, he filed a Motion for Injunctive Relief. (Doc. 14). Accordingly, the Court will proceed with screening and address Lee's request for injunctive relief. 28 U.S.C. § 1915A(a).

II. DISCUSSION

To survive pre-service screening under the PLRA, a "complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). "[L]abels and conclusions," a "formulaic recitation of the elements of a cause of action," and "naked assertions devoid of further factual enhancement" are insufficient to plead a plausible claim. *Id.* Further, "[f]actual allegations must be enough to raise a right to relief above the speculative level." *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 555 (2007) (citation omitted).

However, "[a] pro se complaint must be liberally construed," and courts "should construe the complaint in a way that permits the layperson's claim to be considered within the proper legal framework." *Topchian v. JPMorgan Chase Bank, N.A.*, 760 F.3d 843, 849

[1] The PLRA requires federal courts to screen prisoner complaints seeking relief against a governmental entity, officer, or employee. 28 U.S.C. § 1915A(a). The Court must dismiss a complaint or a portion thereof if the prisoner has raised claims that: (a) are legally frivolous or malicious; (b) fail to state a claim upon which relief may be granted; or (c) seek monetary relief from a defendant who is immune from such relief. *Id.* § 1915A(b). When making this determination, the Court must accept the truth of the factual allegations contained in the complaint, and it may consider the documents attached to the complaint. *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009); *Reynolds v. Dormire*, 636 F.3d 976, 979 (8th Cir. 2011).

(8th Cir. 2014) (cleaned up; citations omitted); *Solomon v. Petray*, 795 F.3d 777, 787 (8th Cir. 2015) (citation omitted).

A. Background and Allegations

According to Lee, the majority of the allegations in his Amended Complaint stem from another lawsuit that he filed in this District on August 30, 2023. (Doc. 10 at 15). In that earlier lawsuit, *Lee v. Patterson, et al.*, No. 4:23-CV-00808-BRW-PSH ("*Lee I*"), Lee filed a 198-page complaint, alleging that 79 defendants violated his constitutional rights. Complaint, *Lee I*, ECF No. 2. The magistrate judge directed Lee to file "an amended complaint with a **short** and **concise** statement describing his claims," and to bring unrelated claims against only *one* defendant or *related* claims against multiple defendants. Initial Order for Pro Se Prisoner Plaintiffs, *Lee I*, ECF No. 3 at 4–5 (citing FED. R. CIV. P. 8(d), 18, 20) (emphasis in original). Lee failed to comply with that order, and the complaint was dismissed pre-service on December 4, 2023. Order and Judgment, *Lee I*, ECF Nos. 26–27.

Despite the early dismissal of *Lee I*, and the fact that the complaint was never served on any defendant, Lee now alleges that he suffered a "campaign of harassment" and retaliatory conduct based on that lawsuit. (Doc. 10 at 15). The claimed retaliation began on September 18, 2023, when Captain Scott "refuse[d] to sign notary," *id.* at 15, and continued through May 4–6, 2024, when Sergeant Karen Davis served him "cold trays" of food, *id.* at 33. The retaliatory acts alleged during that time frame vary widely, including claims of denial of adequate medical care and interference with Lee's "double-cuff" script, *e.g.*, *id.* at 15, 17, 24–31; use of force, *id.* at 22–24, 30, 32; termination of Prison Rape Elimination Act investigation, *id.* at 33; threats, harassment, intimidation, and provocation, *id.* at 16–

22, 25, 30–31, 33; false disciplinaries, *id.* at 19–20; interference with legal mail and access to courts, *id.* at 16–18, 25–28, 30; theft and destruction of property, *id.* at 24–25; denial of yard call, *id.* at 15, 20–23, 25, 27–28, 30–33; having his food tray taken, *id.* at 18; being skipped for shower, *id.* at 21–23, 26; being "watch[ed]" in the shower, *id.* at 25; having his shower cut short, *id.* at 19; being placed in the "last shower," *id.* at 18–19; and being denied soap, *id.* at 32.

B. Unrelated Claims Against Multiple Defendants

Lee's initial Complaint in this action was 290 pages and named 52 individuals as Defendants. (Doc. 2). In its initial screening order, just as in *Lee I*, this Court directed Lee to file an amended complaint with "a *short* and *concise* statement describing his claims," and to bring unrelated claims against only *one* defendant or *related* claims against multiple defendants. (Doc. 4 at 4). Despite the Court's explicit instructions, Lee's Amended Complaint is 118 pages long with 157 pages of documents attached and lists numerous varied claims against 53 Defendants. (Doc. 10). Lee has therefore failed to comply with the Court's order to amend his Complaint, narrow his claims, and comply with the Federal Rules of Civil Procedure.

As Lee is well aware from *Lee I*, he is not "excused from complying with procedural rules, including Federal Rule of Civil Procedure 8 . . . which requires *a short and plain* statement showing the pleader is entitled to relief, and that each allegation in the pleading be simple, concise, and direct." *Cody v. Loen*, 468 F. App'x 644, 645 (8th Cir. 2012) (emphasis added). Lee has failed to comply with Rule 8's requirements in the submission of his Amended Complaint.

Further, as Lee is also aware from *Lee I*, a plaintiff may make multiple claims against a sole defendant. FED. R. CIV. P. 18. But, if a plaintiff wants to sue multiple defendants bringing various claims, Rule 20 of the Federal Rules of Civil Procedure governs which defendants may be joined in a lawsuit. Rule 20 provides, in relevant part:

> **(a)(2)** ***Defendants.*** Persons…may be joined in one action as defendants if:
>
> > **(A)** any right to relief is asserted against them jointly, severally, or in the alternative with respect to or arising out of the same transaction, occurrence, or series of transactions or occurrences; and
> >
> > **(B)** any question of law or fact common to all defendants will arise in the action.

FED. R. CIV. P. 20(a)(2).

If the right to relief does not arise out of the same transaction, occurrence, or series of transactions or occurrences, *and* no question of law or fact is common to all defendants, then the defendants are not properly joined in one lawsuit. As the Court interprets Lee's allegations, certain defendants are not properly joined in this action. His *pure speculation* that all actions were retaliation for *Lee I* does not save his Complaint from improper joinder. *Twombly*, 550 U.S. at 555. As stated in this Court's initial screening order, he may not proceed on all the varied claims he is attempting to bring in this action.

In short, Lee failed to comply with this Court's initial screening order to amend his complaint, narrow his claims, and comply with the Federal Rules of Civil Procedure. (Doc. 4). Accordingly, it is recommended that all claims asserted in Lee's Amended Complaint be dismissed without prejudice for failure to comply with this Court's initial screening order. FED. R. CIV. P. 41(b) (stating district court may dismiss case for failure to comply

with court orders); *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-31, 82 S.Ct. 1386, 8 L.Ed.2d 734 (1962) (holding district court has power to dismiss *sua sponte* under Rule 41(b)); *Brown v. Frey*, 806 F.2d 801, 803-04 (8th Cir.1986) (quoting *Haley v. Kansas City Star*, 761 F.2d 489, 491 (8th Cir.1985)) (holding a district court has the power to dismiss an action for the plaintiff's failure to comply with *any court order*.") (emphasis added); *see also Alexander v. Scott*, No. 5:18-CV-00065-KGB-JTR, 2020 WL 8268198, *2 (E.D. Ark. Jun. 3, 2020) ("[U]nder Rule 41(b) of the Federal Rules of Civil Procedure, a case may be dismissed for failure to prosecute or comply with court orders."), *report and recommendation adopted*, 2021 WL 261655 (E.D. Ark. Jan. 26, 2021).

III. MOTION FOR INJUNCTIVE RELIEF

On July 1, 2024, Lee filed a Motion for Injunctive Relief. (Doc. 14). He seeks a preliminary injunction and a temporary restraining order against Defendants Captain Cantrell Bass, Lieutenant Karma Throne, Sergeant Isom, Lieutenant Cynthia Conway, Corporal Justine Coleman, Corporal Christopher Grant, Sergeant Tyraneka Sims, Sergeant C. Jackson, and Assistant Warden Culcalger. (Doc. 14 at 1, 7).

Much like his Amended Complaint, Lee makes an array of assertions in his Motion for Injunctive Relief. (Doc. 14). His main allegation is that his legal mail is being opened and read outside of his presence. *Id.* at 1–5. He contends that officers were plotting to make sure he did not submit his Amended Complaint by the Court's deadline. *Id.* at 3–4. Lee also asserts that officers tried to take his yard and shower, gave him a "wet and dirty" jumpsuit, stole his documents, and continue their harassment and retaliation. *Id.* at 5–7. Lee seeks a Court order directing security staff to stop searching his legal work outside of

his presence, to return all of his legal mail that was taken, and to make sure that his legal mail gets signed and sent out. *Id.* at 8. He also asks for a Court order allowing him to receive legal materials from the law library. *Id.*

Lee's allegations do not merit the "extraordinary remedy" of preliminary injunctive relief. *Roudachevski v. All-Am. Care Centers, Inc.*, 648 F.3d 701, 705 (8th Cir. 2011) (citation omitted). When deciding whether to grant Lee's request for preliminary injunctive relief, the Court must consider the following "*Dataphase*" factors: (1) the threat of irreparable harm to Lee; (2) the balance between the harm to Lee and the harm to Defendants should the injunction issue; (3) the likelihood of success on the merits; and (4) the public interest. *Roudachevski*, 648 F.3d at 705 (citing *Dataphase Sys., Inc. v. C L Sys., Inc.*, 640 F.2d 109, 114 (8th Cir. 1981)). Importantly, because a preliminary injunction is an "extraordinary remedy," Lee bears "the burden of establishing the propriety" of such relief. *Roudachevski*, 648 F.3d at 705 (citation omitted).

The purpose of a preliminary injunction is "to preserve the status quo and prevent irreparable harm until the court has an opportunity to rule on the lawsuit's merits." *Devose v. Herrington*, 42 F.3d 470, 471 (8th Cir. 1994). Thus, the Court must also consider whether Lee had "establish[ed] a relationship between the injury claimed in [his] motion and the conduct asserted in the complaint." *Id.*

Lee makes no argument regarding the *Dataphase* factors. Nevertheless, the Court will consider them below.

A. Threat of Irreparable Harm

To demonstrate irreparable harm, Lee must show that the harm is "of such imminence that there is a clear and present need for equitable relief to prevent irreparable harm." *Packard Elevator v. I.C.C.*, 782 F.2d 112, 115 (8th Cir. 1986) (citations omitted; emphasis in original). In his Motion, Lee asserts that officers are interfering with his legal mail; specifically, that they were plotting to make sure that he did not send his Amended Complaint to the Court by the deadline. (Doc. 14 at 3–4). Lee also asserts that officers tried to take his yard and shower, gave him a "wet and dirty" jumpsuit, stole his documents, and continue their harassment and retaliation. *Id.* at 5–7.

Despite Lee's claim that officers plotted to make him miss the Court's filing deadline, Lee's Amended Complaint was timely filed. (Docs. 4, 10). Further, Lee has not met his burden of demonstrating actual, substantial harm resulting from officers trying to take his yard and shower, giving him a "wet and dirty" jumpsuit, stealing his documents, or continuing their alleged harassment and retaliation. (Doc. 14 at 5–7). Thus, the threat of irreparable harm, or lack thereof, weighs against preliminary-injunctive relief.

B. Likelihood of Success on the Merits

The allegations in Lee's Motion for Injunctive Relief mirror many of the allegations set forth in his Amended Complaint. As discussed above, the Court is recommending dismissal of Lee's Amended Complaint. Thus, the likelihood of success on the merits also weighs against preliminary-injunctive relief.

C. Balance of Harm and Public Interest

The final two *Dataphase* factors—the balance of harm between the parties should the injunction issue and the public interest—also weigh against granting Lee preliminary-injunctive relief. As discussed, Lee fails to establish a tangible threat of irreparable harm related to Defendants' conduct; yet, he requests that the Court get involved in prison administration and order that security staff stop searching his legal work outside of his presence, return all of his legal mail, make sure that his legal mail gets signed and sent out, and allow him to receive legal materials from the law library. (Doc. 14 at 8).

The Eighth Circuit has emphasized that, "in the prison context, a request for injunctive relief must always be viewed with great caution because judicial restraint is especially called for in dealing with the complex and intractable problems of prison administration." *Goff v. Harper*, 60 F.3d 518, 520 (8th Cir. 1995) (citations omitted). If the Court were to grant Lee's request related to how his legal mail is processed and when he is allowed to receive materials from the law library, it would cut squarely against the ADC's authority to deal "with the complex and intractable problems of prison administration" and the public interest in maintaining the authority. *Id.* Because all *Dataphase* factors weigh against the granting of a preliminary injunction, it is recommended that Lee's Motion for Injunctive Relief be denied.

IV. CONCLUSION

After careful consideration of Lee's Amended Complaint, (Doc. 10), the Court finds that Lee failed to comply with Rules 8 and 20 of the Federal Rules of Civil Procedure as previously ordered by this Court. Accordingly, the Court recommends that Lee's Amended

Complaint be dismissed without prejudice for failure to comply with the Court's initial screening order and his Motion for Injunctive Relief be denied.

IT IS THEREFORE RECOMMENDED THAT:

1. Lee's Amended Complaint, (Doc. 10), be DISMISSED, without prejudice.

2. The Court RECOMMEND that the dismissal count as a "strike" for the purposes of the Prison Litigation Reform Act. 28 U.S.C. § 1915(g); *see Gonzalez v. United States*, 23 F.4th 788, 789 (8th Cir.), *cert. denied*, 142 S. Ct. 2837 (2022).

3. Lee's Motion for Injunctive Relief, (Doc 14), be DENIED.

4. The Court CERTIFY, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from any Order adopting this Recommended Disposition and the accompanying judgment would not be taken in good faith.

DATED this 3rd day of September, 2024.

Beth Moore
UNITED STATES MAGISTRATE JUDGE

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

ERRY LEE,
ADC #120960 **PLAINTIFF**

v. **Case No. 4:24-cv-00418-KGB**

SARAH HUCKABEE SANDERS
Governor of State, *et al.* **DEFENDANTS**

ORDER

Before the Court are a Recommended Disposition ("Recommendation") submitted by United States Magistrate Benecia B. Moore (Dkt. No. 15) and several pending motions filed by plaintiff Terry Lee (Dkt. Nos. 14; 21; 23). Mr. Lee filed objections to the Recommendation (Dkt. No. 20). After conducting a *de novo* review of the record, the Court adopts the Recommendation in its entirety as this Court's findings in all respects. Mr. Lee's amended complaint is dismissed without prejudice (Dkt. No. 10). The Court recommends that, in the future, this dismissal be considered a "strike" for purposes of 28 U.S.C. § 1915(g). The Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an *in forma pauperis* appeal from this Order or the accompanying Judgment would not be taken in good faith.

The Court denies Mr. Lee's pending motion for injunction relief and temporary restraining order (Dkt. No. 14) for the reasons stated in the Recommended Disposition. Having dismissed without prejudice Mr. Lee's amended complaint, the Court denies as moot Mr. Lee's pending motion for injunction relief (Dkt. No. 21) and motion for relief (Dkt. No. 23).

It is so ordered this 21st day of January, 2025.

Kristine G. Baker
Kristine G. Baker
Chief United States District Judge

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

TERRY LEE,
ADC #120960

PLAINTIFF

v. **Case No. 4:24-cv-00418-KGB**

SARAH HUCKABEE SANDERS,[1]
Governor of State, *et al.*

DEFENDANTS

ORDER

Before the Court are three pending motions filed by *pro se* plaintiff Terry Lee. First, there is a motion by Mr. Lee for recusal requesting that Magistrate Judge Beneeia B. Moore recuse from this action (Dkt. No. 16). Second, there is a motion by Mr. Lee to appoint counsel for Mr. Lee (Dkt. No. 17). Third, there is a motion by Mr. Lee for extension of time to file objections to Judge Moore's Recommended Disposition (Dkt. No. 18).

For the following reasons, the Court denies the motion for recusal (Dkt. No. 16), denies the motion to appoint counsel (Dkt. No. 17), and grants the motion to extend time (Dkt. No. 18).

I. Motion For Recusal

Before the Court is Mr. Lee's motion for recusal of Magistrate Judge Benicia B. Moore (Dkt. No. 16). As a preliminary matter, the Court notes that once, as here, the magistrate judge has filed a Recommended Disposition that is dispositive of all outstanding issues, the magistrate judge's involvement in the case ceases. The Court will nevertheless address the recusal issue to satisfy itself that there has been no appearance of a lack of judicial impartiality in this case.

In the Eighth Circuit, "the test for disqualification or recusal is an objective one and asks whether, from the perspective of 'the average person on the street,' a reasonable man knowing all of the

[1] The Court directs the Clerk of Court to correct the spelling of Governor Huckabee Sanders's name on the docket.

circumstances 'would harbor doubts about the judge's impartiality.'" *Arkansas State Conference NAACP v. Arkansas Board of Apportionment*, 578 F. Supp. 3d 1011, 1016 (E.D. Ark. 2022) (quoting *Tyler v. Purkett*, 413 F.3d 696, 704 (8th Cir. 2005)). Judicial rulings alone almost never constitute a valid basis for a bias or partiality motion. *Liteky v. United States*, 510 U.S. 540, 555 (1994) (citing *United States v. Grinnell Corp.*, 384 U.S. 563, 583 (1966)).

In his motion for recusal, Mr. Lee appears to argue that Magistrate Judge Moore should be recused primarily because he disagrees with the rulings in the case (*Id.*, ¶¶ 4–7). He concedes that he "does not know the personal or pecuniary interest of the magistrate judge" in the case (*Id.*, ¶ 2). Accordingly, the Court finds that Mr. Lee has failed to allege facts sufficient to call into question Judge Moore's impartiality. For these reasons, the Court denies the motion for recusal (*Id.*).

II. Motion To Appoint Counsel

Before the Court is Mr. Lee's motion to appoint counsel (Dkt. No. 17). A *pro se* litigant in a civil case does not have a statutory or constitutional right to appointed counsel. *Patterson v. Kelley*, 902 F.3d 845, 850 (8th Cir. 2018); *Phillips v. Jasper County Jail*, 437 F.3d 791, 794 (8th Cir. 2006). However, the Court may, in its discretion, appoint counsel if the *pro se* litigant has stated a non-frivolous claim and if "the nature of the litigation is such that plaintiff as well as the court will benefit from the assistance of counsel." *Patterson*, 902 F.3d at 850 (quoting *Johnson v. Williams*, 788 F.2d 1319, 1322 (8th Cir. 1986)). In making this determination, the Court must weigh and consider the following factors: (1) the factual and legal complexity of the case; (2) the plaintiff's ability to investigate the facts; (3) the existence of conflicting testimony; and (4) the plaintiff's ability to present his claims. *Id.*; *Phillips*, 437 F.3d at 794. The decision to appoint counsel is based on the circumstances of each case. After considering all relevant factors,

including particularly the factual and legal complexity of this case, the Court declines to appoint counsel at this point in the case.

For these reasons, the Court denies the motion to appoint counsel (*Id.*).

III. Motion To Extend Time

Before the Court is Mr. Lee's motion for extension of time (Dkt. No. 18). He requests that the Court extend the time in which he may file objections to the Recommended Disposition (*Id.*). Mr. Lee requests this extension in the light of his pending motion for recusal (Dkt. No. 16) and motion to appoint counsel (Dkt. No. 17) (*Id.*, ¶¶ 1–2). He also represents that he needs more time to prepare his objections (*Id.*, ¶¶ 3–4).

For good cause shown, the Court grants the motion for extension of time (*Id.*). The Court extends the time by which Mr. Lee may file his objections to the Recommended Disposition for 30 days after the entry of this Order.

IV. Conclusion

For the foregoing reasons, the Court denies the motion for recusal (Dkt. No. 16), denies the motion to appoint counsel (Dkt. No. 17), and grants the motion for extension of time (Dkt. No. 18). Mr. Lee has 30 days from the entry of this Order to file his objections to the pending Recommended Disposition (Dkt. No. 15).

It is so ordered this 3rd day of October, 2024.

Kristine G. Baker
Chief United States District Judge

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION

TERRY LEE
ADC #120960 PLAINTIFF

V. Case No. 4:24-cv-00418-KGB-BBM

SARAH HUCKABEE, *et al.* DEFENDANTS

ORDER

Plaintiff, who is proceeding *pro* se in this prisoner civil rights action, filed a Motion to Appoint Counsel (Doc. 5) and a Motion to Extend Time to file an amended complaint (Doc. 6). As set out below, the Motion to Appoint Counsel is DENIED, and the Motion to Extend Time is GRANTED.

Litigants in civil cases do not have an automatic right to appointed counsel. *Phillips v. Jasper County Jail*, 437 F.3d 791, 794 (8th Cir. 2006). Courts sometimes appoint lawyers in cases where "the nature of the litigation is such that plaintiff as well as the court will benefit from the assistance of counsel." *Johnson v. Williams*, 788 F.2d 1319, 1322 (8th Cir. 1986). When deciding whether to appoint counsel, "the district court should consider: [1] the legal complexity of the case; [2] the factual complexity of the case; and [3] the petitioner's ability to investigate and present his claims, along with any other relevant factors." *Hoggard v. Purkett*, 29 F.3d 469, 471 (8th Cir. 1994).

Appointment of counsel is based on the circumstances of each case. After considering the factual and legal complexity of this case and Plaintiff's demonstrated ability to present his case without counsel's assistance, appointment of counsel is denied at this point.[1]

[1] If this case proceeds to trial, the Court may reconsider whether counsel should be appointed to assist Plaintiff.

Plaintiff's request for an extension of time to file an amended complaint is GRANTED.

His amended complaint must be filed by Wednesday, June 26, 2024.

IT IS SO ORDERED this 19th day of May, 2024.

Bernie Moore

UNITED STATES MAGISTRATE JUDGE