

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

DOUGLAS MARSHALL,

Petitioner,

v.

Case No: 2:17-cv-710-FtM-99CM

SECRETARY, FLORIDA DEPT. OF
CORRECTIONS and FLORIDA
D.O.C.,

Respondents.

OPINION AND ORDER¹

This matter comes before the Court on the Court's Order to Show Cause why the Complaint Should Not be Dismissed for Plaintiff's Failure to Comply with the Court's Order and for Abuse of the Judicial Process ([Doc. 22](#)) filed on December 22, 2017. In response, Plaintiff filed a Motion to Amend ([Doc. 25](#)) on January 25, 2017.

In its Order to Show Cause ([Doc. 22](#)), the Court directed the Plaintiff to:

Within **TEN (10) DAYS** from the date on this Order, Plaintiff shall show cause why this case should not be dismissed for failure to comply with Court orders and for abuse of the judicial process. ***Plaintiff's failure to respond or to satisfactorily explain his actions within the allotted time will result in the dismissal of this case without further consideration.*** (emphasis in original).

¹ Disclaimer: Documents filed in CM/ECF may contain hyperlinks to other documents or websites. These hyperlinks are provided only for users' convenience. Users are cautioned that hyperlinked documents in CM/ECF are subject to PACER fees. By allowing hyperlinks to other websites, this Court does not endorse, recommend, approve, or guarantee any third parties or the services or products they provide on their websites. Likewise, the Court has no agreements with any of these third parties or their websites. The Court accepts no responsibility for the availability or functionality of any hyperlink. Thus, the fact that a hyperlink ceases to work or directs the user to some other site does not affect the opinion of the Court.

Plaintiff's Motion to Amend moves the Court for leave to change the names of the Defendants and the factual basis of his Complaint because he has been transferred to a new correctional facility in the Middle District of Florida. Plaintiff's Motion to Amend does not comply with the directives in the Court's Order to Show Cause. The Court directed Plaintiff to state why his Complaint should not be dismissed for failure to use his real name for abuse of the judicial process.

In its Order to Show Cause, the Court noted that Plaintiff filed this case under a fictitious name and failed to include his litigation history. On March 3, 2017, the Honorable Anne C. Conway dismissed a similar case filed in the Orlando Division of the Middle District of Florida with an admonishment that, should Plaintiff initiate another action in federal court, he should "use his legal name (Douglas Marshall Jackson) and complete a standard civil rights form that contains a short brief statement of his claims." *Marshall v. DOC*, 6:17-cv-255-ACC-DCI (Doc. 16) (M.D. Fla. 2017). In addition, in 2008 Plaintiff was told by the District Court for the Northern District of Florida that any future filing in federal district court "must be filed under Plaintiff's legal name" and must include a statement he is barred from proceeding pro se in federal court absent imminent danger of serious physical injury. Case No. 4:08-cv-417-MP-WCS (Doc. 48) (M.D. Fla. 2008). In the instant action, Plaintiff did not use his legal name in his Complaint nor in his Response. Plaintiff was specifically directed to use his legal name—Douglas Marshall Jackson—yet he persists in filing his Complaint simply as Douglas Marshall. Plaintiff signed his Response as Douglas Marshall and did not use his real name as directed.

Further Plaintiff did not provide the Court with his litigation history as directed in the Order to Show Cause. A review of the Public Access to Court Electronic Records (PACER) shows that Plaintiff has filed at least 165 cases in federal court under the names Douglas M. Jackson or Douglas Marshall. Plaintiff continues to ignore the Court's Orders and continues to file frivolous cases in federal court. More recently, this Court dismissed almost the exact same claim filed by Plaintiff for failure to use his real name and for failure to state a claim. *Jackson v DOC*, 2:17-cv-321-JES-MRM ([Doc. 22](#)) (M.D. Fla. 2017).

Plaintiff continues to abuse the court system against the orders of the Court. Plaintiff originally filed this case in the United States District Court for the Southern District of Florida. *Marshall v DOC*, 17-cv-23956-CIV-Scola (S.D. Fla. 2017). The Southern District Court transferred the case back to this Court because the action took place in the Middle District (Desoto County). The Southern District Court found that Plaintiff's filing in the Southern District attempted to avoid further adverse rulings in the Middle District. ([Doc. 17](#)). The Plaintiff continues a pattern of abusing the judicial process by attempting to avoid this Court's adverse decision dismissing his previous case by attempting to bring the same action in the Southern District.

Despite the clear warnings that his case would be dismissed from this Court, the Orlando Division of the Middle District of Florida, and from the Northern District of Florida, Plaintiff's Complaint was not filed under his legal name and he did not correct this error in his Response. Plaintiff was specifically warned by this Court he must comply and satisfactorily explain his actions within the allotted time or cause the dismissal of this case without further consideration yet Plaintiff failed to comply with the Court's Order to Show Cause. See *Marshall v. DOC*, 2:17-cv-321-JES-MRM (M.D. Fla. 2017); *Marshall v. DOC*,

2:17-cv-255-ACC-DCI (M.D. Fla. 2017); *Marshall v. DOC*, 4:08-cv-417-MP-WCS (Doc. 48) (N.D. Fla. 2008). Because Plaintiff has failed to respond as directed to the Court's Order to Show Cause, his case is due to be dismissed.

ORDERED:

The Plaintiff Douglas Marshall Jackson's Complaint ([Doc. 1](#)) is **DISMISSED**. The Clerk of the Court is directed to enter judgement, terminate any pending motions, and close the file.

DONE and **ORDERED** in Fort Myers, Florida this 9th day of March, 2018.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

Copies:
Douglas Marshall Jackson
SA: FTMP-2