

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
OCALA DIVISION**

JEROME HEAVEN, JR.,

Plaintiff,

v.

Case No. 5:23-cv-449-TJC-PRL

MARION COUNTY SHERIFF'S
OFFICE, BILLY WOODS, Sheriff,
FNU JENNINGS, Sgt., FNU DIAZ,
Sgt., FNU MOORE, Officer, FNU
BOWE, Sgt., FNU RAMOS, and
FNU DORIS, Nurse,

Defendants.

ORDER

This case is before the Court on Plaintiff Jerome Heaven, Jr.'s Motion to Proceed In Forma Pauperis, Doc. 2. On August 29, 2023, the assigned United States Magistrate Judge issued a Report and Recommendation recommending denying the motion, dismissing the complaint, and labeling Heaven an abusive filer. Doc. 5. No party has filed an objection to the Report and Recommendation, and the time in which to do so has passed. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b).

“The right of access to the courts is neither absolute nor unconditional.” Miller v. Donald, 541 F.3d 1091, 1096 (11th Cir. 2008) (internal quotation marks and quoted authority omitted). “Frivolous and vexatious law suits

threaten the availability of a well-functioning judiciary to all litigants.” Id. “The goal of fairly dispensing justice is compromised when the Court is forced to devote its limited resources to the processing of repetitious and frivolous requests.” In re Anderson, 511 U.S. 364, 365 (1994) (cleaned up). “Federal courts have both the inherent power and the constitutional obligation to protect their jurisdiction from conduct which impairs their ability to carry out Article III functions,” including the “responsibility to prevent single litigants from unnecessarily encroaching on the judicial machinery needed by others.” Procup v. Strickland, 792 F.2d 1069, 1073–74 (11th Cir. 1986).

Since April, Heaven has filed twenty-nine¹ cases in the Middle District of Florida, many based on the same factual allegations. All but two have been dismissed,² for reasons including lack of jurisdiction, failure to state a claim on which relief may be granted, frivolousness,³ and other pleading deficiencies. In eight, Heaven failed to comply with Court orders or otherwise prosecute his cases. In six, he declined to respond or object to Report and Recommendations

¹Although Heaven is the plaintiff in thirty-one cases, he filed only twenty-nine; two were transferred from the Tampa Division to the Ocala Division and assigned new case numbers.

²The two pending cases are this one and another only recently filed.

³When Heaven began filing cases here, he was incarcerated. Under 28 U.S.C. § 1915(g), a prisoner who has filed at least three frivolous actions while detained is prohibited from bringing an action or appeal in federal court unless he is in imminent danger of serious physical injury. Of the dismissals for frivolousness, five constitute “strikes” under this provision, but Heaven is no longer incarcerated.

recommending dismissal. In three, the Court warned him future frivolous filings may result in sanctions and filing restrictions. The Court has repeatedly explained pleading requirements and directed him to applicable rules.

Considering plaintiff's abusive filing practices, his disregard for the rules and Court orders, and the substantial strain addressing his many meritless actions has put on the Court, this order shall serve as a basis to label plaintiff as a vexatious litigant who will face filing restrictions if he continues to file meritless cases.

Upon de novo review of the file and for the reasons stated here and in the Report and Recommendation, Doc. 5, it is hereby

ORDERED:

1. The Report and Recommendation of the Magistrate Judge, Doc. 5, is **ADOPTED** as the opinion of the Court to the extent stated above.
2. The Motion to Proceed In Forma Pauperis, Doc. 2, is **DENIED**.
3. The complaint is **DISMISSED WITHOUT PREJUDICE**.
4. The clerk is **DIRECTED** to close the file.

DONE AND ORDERED in Jacksonville, Florida, the 11th day of December, 2023.



Timothy J. Corrigan
TIMOTHY J. CORRIGAN
United States District Judge

vng/s

Copies to:

The Honorable Philip R. Lammens
United States Magistrate Judge

pro se plaintiff