

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
VALDOSTA DIVISION**

SHEM O. MORGAN,	:	
	:	
Plaintiff,	:	
	:	
VS.	:	<b>7:21-CV-33 (LAG)</b>
	:	
TIMOTHY C. WARD, <i>et al.</i> ,	:	
	:	
Defendants.	:	
	:	

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**RECOMMENDATION**

Presently pending before the Court is Plaintiff’s Motion for “Estoppel[] by Judgment.” (Doc. 104). Plaintiff asserts that “defendants[’] actions continue to impede [Plaintiff’s] ability to successfully prosecute this action.” *Id.* at 2. Plaintiff requests this Court issue an order for “Estoppel[] of Judgment” and declare that Plaintiff is entitled to “weekly access to the legal research reference library and the services stated in GDC Rules.” *Id.* Plaintiff requests “[p]hotocopying services,...[i]ndigent legal supplies,...[a]n assigned librarian with a Notary Public Commission, [and]... [a]ccess to online legal research reference material for two hours each session for a minimum of one day per week.” *Id.* at 2-3.

Defendants assert Plaintiff’s motion might be construed as a request for injunctive relief. If the motion is construed this way, Defendants assert it should fail because “there is no showing of a need or right for such relief.” (Doc. 105 at 1). Defendants also contend Plaintiff has failed to show that they are impeding his ability to prosecute this case. *Id.*

***Motion for Injunctive Relief***

A plaintiff is not entitled to a preliminary injunction unless he establishes four prerequisites: “(1) a substantial likelihood of success on the merits; (2) a substantial threat of

irreparable injury; (3) that the threatened injury to the plaintiff outweighs the potential harm to the defendant; and (4) that the injunction will not disserve the public interest.” *Palmer v. Braun*, 287 F.3d 1325, 1329 (11th Cir. 2002). “[A] preliminary injunction is an extraordinary and drastic remedy not to be granted unless the movant clearly established the burden of persuasion as to the four requisites.” *McDonald’s Corp. v. Robertson*, 147 F.3d 1301, 1306 (11th Cir. 1998) (citations and quotations omitted). A failure to demonstrate a “substantial likelihood of success on the merits” may defeat a motion for a preliminary injunction, regardless of the movant’s ability to establish the other prerequisites. *Church v. City of Huntsville*, 30 F.3d 1332, 1342 (11th Cir. 1994). Similarly, “the absence of a substantial likelihood of irreparable injury would, standing alone, make preliminary injunctive relief improper.” *Siegel v. LePore*, 234 F.3d 1163, 1176 (11th Cir. 2000).

A prisoner has no “abstract, freestanding right to a law library or legal assistance.” *Lewis v. Casey*, 518 U.S. 343, 351 (1996). “[A]n inmate cannot establish relevant actual injury simply by establishing that his prison’s law library . . . is subpar in some theoretical sense.” *Id.* Rather, the inmate “must go one step further and demonstrate that the alleged shortcomings in the library...hindered his efforts to pursue a legal claim.” *Id.* As to the potential harm to a prison official defendant, the courts must afford prison officials deference in their day-to-day administration. *See Preiser v. Rodriguez*, 411 U.S. 475, 491-92 (1973).

Here, Plaintiff does not allege that he has been prohibited from using the law library. Rather, Plaintiff asks the Court to guarantee him a specific amount of time in the law library, as well as various other services. The Court notes that Plaintiff’s Complaint successfully survived initial review, and Plaintiff was permitted to pursue claims against 16 Defendants. (Doc. 12). Additionally, there are no pending motions in this case requiring Plaintiff’s response. Based on

these facts, the Court finds that Plaintiff has not shown either a substantial likelihood of success on the merits, or a substantial likelihood of irreparable injury. Therefore, to the extent Plaintiff's Motion requests injunctive relief, it is **RECOMMENDED** that Plaintiff's Motion (Doc. 104) be **DENIED**.

***Motion for Summary Judgment***

"Where a motion for summary judgment is filed after the district court's deadline for dispositive motions, the district court may properly deny it as untimely." *Couch v. Britton*, 2016 WL 2993175 at \*1 (M.D. Ga. 2016) (citing *Dedge v. Kendrick*, 849 F.2d 1398, 1398 (11th Cir. 1988)). The deadline for filing dispositive motions in this case was July 3, 2023. (Doc. 100). Plaintiff did not file this Motion until May 8, 2024. Thus, to the extent Petitioner is seeking summary judgment in this Motion, it is **RECOMMENDED** that Plaintiff's Motion (Doc. 104) be **DENIED**.

Pursuant to 28 U.S.C. § 636(b)(1), the parties may serve and file written objections to these recommendations, or seek an extension of time to file objections, WITHIN FOURTEEN (14) DAYS after being served with a copy thereof. The District Judge shall make a de novo determination as to those portions of the Recommendations to which objection is made; all other portions of the Recommendations may be reviewed by the District Judge for clear error.

The parties are hereby notified that, pursuant to Eleventh Circuit Rule 3-1, "[a] party failing to object to a magistrate judge's findings or recommendations contained in a report and recommendation in accordance with the provisions of 28 U.S.C. § 636(b)(1) waives the right to challenge on appeal the district court's order based on unobjected-to factual and legal conclusions if the party was informed of the time period for objecting and the consequences on appeal for failing to object. In the absence of a proper objection, however, the court may review on appeal

for plain error if necessary in the interests of justice.”

**SO RECOMMENDED**, this 12th day of June, 2024.

s/ ***THOMAS Q. LANGSTAFF***  
UNITED STATES MAGISTRATE JUDGE