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

MARQUISE ROBBINS,	:	
	:	
Plaintiff,	:	
	:	CASE NO.: 7:15-CV-124 (WLS)
v.	:	
	:	
WILLIAM ROBERTSON and WARDEN MARTY ALLEN,	:	
	:	
Defendants.	:	
	:	

ORDER

Presently pending before the Court is an Order and Recommendation from United States Magistrate Judge Thomas Q. Langstaff, filed on July 13, 2016. (Doc. 26.) Therein, Judge Langstaff recommends dismissing Valdosta State Prison (hereinafter "VSP") as a party from Plaintiff Marquise Robbins' Amended Complaint (*see* Doc. 15) and granting Defendants William Robertson and Warden Marty Allen's Motions to Dismiss (Docs. 13, 17) for Plaintiff's failure to state a claim.

Specifically, Judge Langstaff found that VSP, a state agency, was not a proper party to a 42 U.S.C. § 1983 action. (*See* Doc. 26 at 2-3.) Judge Langstaff also determined Plaintiff failed to state a claim upon which relief may be granted with respect to his religious freedom claims, sought under the Religious Land Use and Institutionalized Persons Act (RLUIPA) and the First Amendment, and his Eighth Amendment claim pertaining to the quality of the vegan meals provided by VSP. (*See id.* at 5-9.) With respect to the RLUIPA religious freedom claims, Judge Langstaff first found that Plaintiff cannot seek monetary damages against Defendants because RLUIPA does not create a private cause of action for monetary relief. (*Id.* at 5-6.) Second, Judge Langstaff concluded that Plaintiff's attempt to seek injunctive relief under RLUIPA must also fail because he failed to set out a sufficient claim that his religious beliefs had been "substantially burdened" by what Plaintiff alleges to be "diluted, unsatisfactory vegan meals." (*Id.* at 6-7.)

Similarly, Judge Langstaff found that Plaintiff failed to set out a sufficient and plausible claim with respect to his First Amendment religious freedom claim. (*See id.* at 7-8.) There, Judge Langstaff concluded that Plaintiff did not "specifically allege that the provision of vegan meals somehow impinged upon, let alone substantially burdened, his religious beliefs[.]" (*Id.* at 8.) With respect to the Eighth Amendment claims, Judge Langstaff found that Plaintiff failed to allege that Defendants "knowingly provided less than reasonably adequate food to Plaintiff in his requested vegan meals." (*Id.* at 9.)

Judge Langstaff's Recommendation and 28 U.S.C. § 636 provided the parties with fourteen (14) days to file an objection, and the Court received Plaintiff's timely-filed objections on July 23, 2016. (*See* Doc. 28.) Plaintiff's first two objections relate to matters Judge Langstaff has already ruled on, namely the second Motion to Amend and the Motion for Temporary Restraining Order. (*See id.* at 1-3.) In denying, the second Motion to Amend, Judge Langstaff found that Plaintiff unnecessarily delayed in seeking the amendment and did not provide enough specific information to raise claims against an unnumbered amount of defendants labeled "VSP Kitchen Supervisors." Judge Langstaff also found that Plaintiff failed to establish an adequate basis form his Motion for Temporary Restraining Order regarding his access to the library. Specifically, Judge Langstaff found that Plaintiff did not show that there was a substantial likelihood of success on the merits, resulting irreparable harm, or that no other relief is available to address his alleged injuries.

Plaintiff's objections are essentially the same as presented to Judge Langstaff. Furthermore, Plaintiff provides no adequate reason for this Court to overturn Judge Langstaff's findings and rulings. Regarding the second Motion to Amend, he asserts that it is "clear" that his amended complaint would sustain viable claims against VSP Kitchen Supervisors if he was permitted to submit additional information. However, the Court finds that Judge Langstaff's findings on the futility of the amendment are correct. Other than reiterating the "clearness" of his amendment, Plaintiff did very little to show that his amendment raised enough factual allegations "above the speculative level" against the unknown number of individuals in the VSP Kitchen Supervisor group. *Bell Atlantic Corp. v. Twombly*, 550 U.S. 544, 555 (2007). And "futility of [the] amendment" is a justifying reason this Court may rely upon in denying a motion to amend. *See Foman v. Davis*, 371 U.S. 178, 182 (1962).

With respect to the denied Motion for Temporary Restraining Order, Plaintiff similarly argues that he has "shown that his claims are colorable," in that he faced imminent danger of irreparable harm for his alleged lack of access to the library. (Doc. 28 at 2-3.) He asserts this is shown in two ways: (1) by interference and retaliation for filing this lawsuit and (2) by "utter denial of access to necessitated legal information and materials." (*Id.* at 3.) Again, as Judge Langstaff found, Plaintiff has failed to meet the standard to obtain injunctive relief through a preliminary injunction. As the movant, Plaintiff must show: "(1) a substantial likelihood that he will ultimately prevail on the merits; (2) that he will suffer irreparable injury unless the injunction issues; (3) that the threatened injury to the movant outweighs whatever damage the proposed injunction may cause the opposing party; and (4) that the injunction, if issued, would not be adverse to the public interest." *Zardui-Quintana v. Richard*, 768 F.2d 1213, 1216 (11th Cir. 1985.)

Plaintiff has failed to show that he has a substantial likelihood of success on the merits, failed to show that he will suffer any injury, let alone irreparable harm, unless the injunction is granted, and further has not shown that no other relief is available to address his alleged injuries. Plaintiff's requested relief from "restrictive conditions" comprises of "ensur[ing] that he is placed at a facility that can and will provide the mandatory legal research needs." (Doc. 25 at 2.) Specifically, Plaintiff argues that on more than one occasion over the course of a year, he was denied access to a satellite research computer for legal-research purposes, as well as assistance from the law librarians. (*See generally* Doc. 25.) First, there is no likelihood of success on the merits because the Court is not authorized to transfer inmates to the facility of their choosing. Second, while it is indeed a fundamental right for prisoners to have "meaningful access to the courts," *see Bounds v. Smith*, 430 U.S. 817, 824 (1977), "an inmate cannot establish relevant actual injury simply by establishing that his prison's law library or legal assistance program is subpar in some theoretical sense." *Lewis v. Casey*, 518 U.S. 343, 351 (1996). Essentially, Plaintiff complains that he has not received immediate access to legal resources, which alone is insufficient to establish an irreparable injury warranting a remedy as extraordinary and drastic as a preliminary injunction. *See McDonald's Corp. v. Robertson*, 147 F.3d 1301, 1306 (11th Cir. 1998).

Lastly, and according to the record, the grievance process was available to Plaintiff to provide other additional relief. Plaintiff complained of the access to the computer, and on

October 26, 2015, VSP's responded that the computer was not working properly and the issue has been reported to their IT staff. (*See* Doc. 25-3 at 27.) The response to the grievance went on to state that Plaintiff was "requesting and receiving the information [he stated he needed for his] legal work." (*Id.*) Additionally, although he was only to receive two items at a time from the law library, he received "more items than [he was] authorized." (*Id.*) On these facts found in the record, Plaintiff has failed to show that he suffered irreparable harm or that there was no other relief available to him, because Plaintiff was still afforded access to legal materials in order to address his pending legal matters.[1] Plaintiff has shown no actual injury resulting from his alleged lack of access. Accordingly, Plaintiff's objections at this point are **OVERRULED,** and Judge Langstaff's rulings are **SUSTAINED.**

Plaintiff's remaining objections relate to the Recommendation. (*See* Doc. 28 at 3-5.) First, Plaintiff objects to the recommendation to dismiss the RLUIPA claims because he argues the Complaint sufficiently alleges a "substantial burden" on his "religious practice and credence." (*Id.* at 3-4.) Second, regarding his First Amendment claim, Plaintiff objects to Judge Langstaff's finding that he failed to specifically allege how his alleged injury substantially burdened his sincerely held religious beliefs. (*See id* at 4-5.) He asserts that his free exercise claims should move forward because his Complaint repeatedly states that his religious rights were "substantially burdened" and that his beliefs were sincerely held. (*Id.*) Last, Plaintiff submits that his Eighth Amendment claim states a plausible claim because he "distinctly asserted" that Defendants "knowingly provided less than reasonably adequate food to Plaintiff's requested vegan meals" and Defendants "were aware of the condition that exposed an unreasonable risk of serious harm to inmates[']' future health or safety." (*Id.* at 5.)

Plaintiff's objections merely offer the same "labels and conclusions" and "formulaic recitation of the elements of a cause of action" he presented in his complaint and amended complaint, which "will not do." *Twombly*, 550 U.S. at 555; *see also Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009). As to the first objection, Plaintiff points directly to his same allegations in his complaint to support his argument that his RLUIPA claims should proceed. A "substantial burden" requires more than an inconvenience or "an incidental effect on religious exer-

[1] The Court takes notice of Plaintiff Objection, and prior filings on this Court, which contains not only correctly cited case law, but also case law that is relevant to his litigation. The Court can only presume that Plaintiff has more than meager access to legal materials to prosecute his cases.

cise." *Midrash Sephardi, Inc. v. Town of Surfside*, 366 F.3d 1214, 1227 (11th Cir. 2004). It is "akin to significant pressure which directly coerces the religious adherent to conform his or her behavior" or "forego religious precepts[.]" *Id.* Here, Plaintiff's allegations of food preparation that is contrary to Georgia Department of Corrections policy and the "knowingly" improper preparation of the restricted vegan meals are not factual allegations that rise to the level of a substantial burden to his religious practices. It is undisputed that upon complaint of the quality of food, Plaintiff was provided multivitamins and a nutritional meal diet. (*See* Doc. 1 at 7.) Even with these accommodations, Plaintiff made no indication that he had to forego his religious practices or how his beliefs continued to be substantially burdened by Defendants. Accordingly, the Court is in agreement with Judge Langstaff's finding that Plaintiff failed to state a plausible claim for relief for his RLUIPA claims against Defendants. Plaintiff's objection on this ground is **OVERRULED.**

As to his second objection, Plaintiff similarly argues that Judge Langstaff's recommendation should not be adopted because he "distinctly asserted" in his pleadings that his right to exercise his religious dietary beliefs was substantially burdened. (Doc. 28 at 4-5.) He goes on to further argue that, in order to state a First Amendment Free Exercise Clause claim, one must only "state that the belief is your religious belief." (*Id.* at 5.) For the same reasons stated above, mere recitals and conclusions are insufficient in order to state a plausible claim of relief that his religious practices were substantially burdened. Here, Plaintiff did nothing more than just that. Furthermore, "[t]o plead a valid free exercise claim," a plaintiff must "allege that the government has impermissibly burdened one of his 'sincerely held religious beliefs.'" *Watts v. Fla. Int'l Univ.*, 495 F.3d 1289, 1294 (11th Cir. 2007) (quoting *Frazee v. Ill. Dep't of Emp't Sec.*, 489 U.S. 829, 834 (1989)). Merely stating that one's belief is a religious one alone is an inadequate basis for asserting a free exercise claim. The law requires both an impermissible and substantial burden on a sincerely held religious belief. Thus, Plaintiff's second objection is **OVERRULED.**

In his final objection, Plaintiff again referred back to his pleadings in an attempt to show that he stated a claim for Eight Amendment violations. (Doc. 28 at 5.) Specifically, he argues that he "distinctly asserted" that Defendants "knowingly provided less than reasonably adequate food to Plaintiff's requested vegan meals" and that Defendants were "aware of the conditions that exposed an unreasonable risk of serious harm to inmates['] future health

or safety."[2] (*Id.*) Once again, Plaintiff presented only a "formulaic recitation of the elements of a cause of action," which is not entitled to any weight. *See Twombly*, 550 U.S. at 554-55; *see also Iqbal*, 556 U.S. at 678, 681. Plaintiff failed to assert any factual allegations that the restricted vegan meals were less than "reasonably adequate food of sufficient nutritional value to preserve health" or that the Defendants acted with a sufficient culpable state of mind in depriving adequate food options. *See Edwards v. Cornelius*, No. 6:11-CV-1630-Orl-36DAB, 2012 WL 2087413, *8 (M.D. Fla. June 8, 2012) (citing *Hamm v. DeKalb Cty.*, 774 F.2d 1567, 1575 (11th Cir. 1985)). Thus, for the same reasons noted above, Plaintiff's third objection to the Recommendation is **OVERRULED.**

Thus, upon full review and consideration of the record, the Court finds that Plaintiff Marquise Robbins' Objections are **OVERRULED,** and Judge Langstaff's July 13, 2016 Order and Recommendation (Doc. 26) should be, and hereby is, **ACCEPTED**, **ADOPTED** and made the Order of this Court for reason of the findings made and reasons stated therein together with the findings made and conclusions reached herein. Accordingly, Defendants' Motions to Dismiss (Doc. 13, 17) are **GRANTED,** and Plaintiff's Complaint (Doc. 1) is hereby **DISMISSED.**

SO ORDERED, this 31st day of August, 2016.

/s/ W. Louis Sands
W. LOUIS SANDS, SR. JUDGE
UNITED STATES DISTRICT COURT

[2] The Court notes that these are direct quotes from Judge Langstaff's Recommendation. (*See* Doc. 26 at 9.)