

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, SOUTHERN DIVISION

JENNIFER L. ERTL,)	
)	
Plaintiff,)	
)	CIVIL ACTION NO.
v.)	1:09cv693-MHT
)	(WO)
JOHN D. LANE,)	
)	
Defendant.)	

ORDER

This lawsuit is now before the court on an "affidavit" filed by the plaintiff on December 3, 2009. Because, with the affidavit, the plaintiff simply objects to the recommendation of the magistrate judge entered on September 17, 2009, the court will treat the affidavit as objections to that recommendation.

Also, while the affidavit was filed on December 3 (long after the October 16 deadline for filing objections to the recommendation), it appears from the postmark that it was actually mailed on October 5 and took two months to get here from Germany. The court will therefore treat

the affidavit as a Fed.R.Civ.P. 60(b) motion to set aside the final order and judgment entered on October 29, 2009, Ertl v. Lane, 2009 WL 3618630 (M.D. Ala. 2009), and the motion will be granted. For the same reason, the court will also treat the objections (contained in the affidavit) as timely filed and will consider them on the merits.

Accordingly, it is ORDERED as follows:

- (1) The plaintiff's affidavit (Doc. No. 10) is treated as objections to the recommendation.
- (2) The plaintiff's affidavit (Doc. No. 10) is also treated as a motion to set aside final order and judgment and said motion is granted.
- (3) The final judgment and order (Doc. Nos. 8 & 9), Ertl v. Lane, 2009 WL 3618630 (M.D. Ala. 2009), are vacated.

DONE, this the 17th day of December, 2009.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE