

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

CHARLES PERKINS,)	
AIS #169906,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 2:02-CV-1369-T
)	(WO)
PAUL WHALEY,)	
)	
Defendant.)	

ORDER ON MOTION

On November 22, 2004, the Magistrate Judge entered a Recommendation that this case be dismissed due to the plaintiff's failure to provide the court with his correct address. The plaintiff filed no objections to the Recommendation. The court therefore adopted the Recommendation and entered judgment on December 17, 2005.

On March 9, 2005, the plaintiff filed a motion for relief from judgment in which he argues that he provided the court with a correct address prior to entry of the Recommendation and that the Clerk erred in failing to note his change of address. Specifically, Perkins maintains that letters he mailed to the Clerk in August of 2004 "had plaintiff's address of Bibb County [Correctional Facility] on the letter head and return address." *Plaintiff's Motion for Relief from Judgment* at 2. The evidentiary materials submitted by the plaintiff support this assertion. *See Amendment to Motion for Relief from Judgment - Exhibits B and C*. The order of procedure entered in this case merely directs the plaintiff to notify the court of any change in his address and no particular type of notice

is required by this order. *See Order of December 23, 2002 - Court Doc. No. 3* at 3. Moreover, the Clerk routinely utilizes both return addresses on envelopes and addresses contained in correspondence to change addresses provided by inmates. However, the Clerk apparently failed to take such action in this case. Accordingly, it is

ORDERED that:

1. The plaintiff's motion for relief from judgment (Court Doc. No. 20) be and is hereby GRANTED.

2. The Opinion (Court Doc. No. 17) and Final Judgment (Court Doc. No. 18) entered in this case on December 17, 2004 be and are hereby VACATED.

3. This case be referred back to the Magistrate Judge for further appropriate proceedings as warranted by this order.

Done, this the 19th day of April, 2005.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE