

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

EDDIE AHMAD HAYES, #233519,	)	
	)	
Plaintiff,	)	
v.	)	CASE NO. 2:08-cv-416-MEF
	)	
WARDEN GILES, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**ORDER**

On October 28, 2010, the Magistrate Judge filed a Recommendation (Doc. #42) in this case to which no timely objections have been filed. Upon an independent review of the file in this case and upon consideration of the Recommendation of the Magistrate Judge, it is the

ORDER, JUDGMENT and DECREE of the court that:

1. The Recommendation of the Magistrate Judge is ADOPTED.
2. Defendants Giles and Jenkins' motion for summary judgment on plaintiff's Eighth Amendment claim (Doc. #22) is GRANTED.
3. Defendants' motions for summary judgment on plaintiff's ADA claim (Doc. #13, #14, #22, #32) are GRANTED.
4. Plaintiff's claims against defendants Giles and Jenkins are DISMISSED with prejudice.
5. Defendants Ferrell and James' motions for summary judgment on plaintiff's Eighth

Amendment claim (Doc. #13, #14, #32) are GRANTED to the extent these defendants seek dismissal of this claim due to plaintiff's failure to properly exhaust an administrative remedy previously available to him at the Ventress Correctional Facility; and

6. Plaintiff's Eighth Amendment claim against defendants Ferrell and James are DISMISSED with prejudice in accordance with the provisions of 42 U.S.C. § 1997e(a) for plaintiff's failure to exhaust an administrative remedy available to him during his confinement at the Ventress Correctional Facility.

7. Costs of this action are taxed against the plaintiff for which execution may issue.

DONE this the 2<sup>nd</sup> day of December, 2010.

/s/ Mark E. Fuller  
CHIEF UNITED STATES DISTRICT JUDGE