

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

FRANKIE MCDANIEL, # 205198, )  
)  
Plaintiff, )  
)  
v. )  
)  
STATE OF ALABAMA DEPT. )  
OF CORRECTIONS, )  
)  
Defendant. )

CIVIL ACTION NO. 2:08cv929-TMH

**ORDER AND OPINION**

On December 15, 2008, the Magistrate Judge filed a Recommendation in this case to which no timely objections have been filed. (Doc. # 4). Upon an independent review of the file in this case and upon consideration of the Recommendation of the Magistrate Judge, it is

ORDERED and ADJUDGED that the Recommendation of the Magistrate Judge be and is hereby ADOPTED and that plaintiff's complaint are DISMISSED with prejudice prior to service of process pursuant to the provisions of 28 U.S.C. § 1915(e)(2)(B)(I).

Done this the 12th day of January, 2009.

/s/ Truman M. Hobbs

\_\_\_\_\_  
SENIOR UNITED STATES DISTRICT JUDGE