

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

JAMES EDWARD SPENCER, #137970,)	
)	
Plaintiff,)	
v.)	CASE NO. 2:09-cv-1089-MEF
)	
BOB RILEY, <i>et al.</i> ,)	(WO)
)	
Defendants.)	

ORDER

After an independent review of the file, it is the ORDER, JUDGMENT and DECREE of the court that:

1. The plaintiff’s objection (Doc. # 11) to the Recommendation of the Magistrate Judge, filed on February 9, 2010, is OVERRULED.

2. The Recommendation of the Magistrate Judge (Doc. # 9), filed on January 25, 2009, is ADOPTED.

3. The plaintiff’s challenge to the constitutionality of his conviction and sentence is DISMISSED without prejudice in accordance with 28 U.S.C. § 1915(e)(2)(B)(ii).

4. This case is referred back to the Magistrate Judge for further proceedings.

DONE this the 24th day of February, 2010.

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