

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

JAMIE NEAL HORNSBY, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
SGT. WITTIEN, *et al.*, )  
 )  
 Defendants. )

CASE NO. 2:09-cv-1134-ID  
[WO]

**ORDER**

The Magistrate Judge entered a Recommendation (Doc. No. 17) in this case to which no timely objections have been filed. After a review of the Recommendation, and after an independent review of the entire record, the Court believes that the Recommendation should be adopted. Accordingly, it is

ORDERED that the RECOMMENDATION of the Magistrate Judge is ADOPTED.

It is further

ORDERED that Defendant’s Motion to Dismiss is GRANTED to the extent Defendants seek dismissal of this case due to Plaintiff’s failure to properly exhaust an administrative remedy currently available to him at the Elmore County Jail. This case is DISMISSED without prejudice pursuant to the provisions of 42 U.S.C. § 1997e(a) due to Plaintiff’s failure to exhaust an available administrative remedy.

Done this 12<sup>th</sup> day of March, 2010.

/s/ Ira DeMent  
SENIOR UNITED STATES DISTRICT JUDGE