

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

TREMANE D. CARTHEN,)	
)	
Plaintiff,)	
v.)	CASE NO. 2:10-CV-281-WKW
)	
BAPTIST SOUTH)	
MEDICAL CENTER, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

On April 21, 2011, the Magistrate Judge filed a Report and Recommendation in this case. (Doc. # 37.) The Report and Recommendation required Mr. Carthen to file his objections on or before May 5, 2011. (Doc. # 37, at 4.) On April 29, 2011, Mr. Carthen filed a motion for extension of time to respond to both the Report and Recommendation and the Magistrate Judge’s April 6, 2011 Order (Doc. # 35)¹ because he was out of town on a business trip. (Doc # 38, at 1.) The Magistrate Judge granted Mr. Carthen’s motion in part, allowing him an extension to May 13, 2011 to file an objection to the Report and Recommendation, and denied it in part, denying him an extension to file an amended complaint for failure to show good cause for doing so. (Doc. # 39, at 1.) On May 16, 2011, Mr. Carthen filed his “Response to Doc[.] # 37.” (Doc. # 40 (“Response”).)

¹The Magistrate Judge’s April 6, 2011 Order (Doc. # 35) *sua sponte* granted Plaintiff an extension to April 15, 2011, to file an amended complaint due to the Magistrate Judge’s inadvertent inclusion of two filing deadlines in its previous order. (Doc. # 34, at 4-5 (listing March 15, 2011 and April 1, 2011 as filing deadlines).).

Despite the Magistrate Judge's extension and previous warning that "failure to comply with Orders of this Court . . . may result in the dismissal of his action," (Doc. # 34, at 5), Mr. Carthen filed his Response after the May 13, 2011 deadline. (Doc. # 39, at 1.) Mr. Carthen's untimely response further manifests his disregard for orders of this court. Further, even if Mr. Carthen's Response was a timely objection, it is wholly unresponsive to the Report and Recommendation. Given Mr. Carthen's failure to prosecute and his disregard of the orders of this court, and upon an independent review of the file in this case and upon consideration of the Report and Recommendation, it is ORDERED that the Report and Recommendation is ADOPTED as follows:

- (1) Mr. Carthen's Response is DENIED as untimely (Doc. # 40);
- (2) Mr. Carthen's claims are DISMISSED without prejudice; and
- (3) Defendant Baptist South Medical Center's Motion to Dismiss, or in the alternative Motion for More Definite Statement (Doc. # 23), is DENIED as moot.

DONE this 17th day of May, 2011.

/s/ W. Keith Watkins
CHIEF UNITED STATES DISTRICT JUDGE