

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

| | | |
|---------------------------|---|--------------------------------|
| KENNETH CORNELIUS POWELL, |) | |
| #187 215, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | CIVIL ACTION NO. 2:11cv114-WHA |
| |) | |
| LARRY ANGLIN, et al., |) | (WO) |
| |) | |
| Defendants. |) | |

ORDER

On May 11, 2011, this court entered an order adopting the Recommendation of the Magistrate Judge, noting that no objection had been filed by the deadline of May 3, 2011 (Doc. #11). Final Judgment was also entered (Doc. #12).

On May 12, 2011, an Objection to the Report and Recommendation was received by the court (Doc. #13). It was accompanied by a verification of mailing stating that the objection had been properly placed in the institutional mailbox on May 3, 2011. Therefore, the court will treat the objection as having been timely filed, and it is hereby

ORDERED that the Order and Final Judgment entered on May 11, 2011 are VACATED and SET ASIDE.

Upon full consideration of the Plaintiff's objection, and following an independent and *de novo* review of the entire file, the court finds the objection to be without merit, and it is hereby OVERRULED. The court adopts the Recommendation of the Magistrate Judge, and it is hereby

ORDERED that this case is DISMISSED without prejudice prior to service of process

pursuant to the provisions of 28 U.S.C. § 1915(e)(2)(B)(i) and (ii).

Final Judgment will be entered accordingly.

DONE this 26th day May, 2011.

/s/ W. Harold Albritton
W. HAROLD ALBRITTON
SENIOR UNITED STATES DISTRICT JUDGE