

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

DWIGHT ELSBERRY, #221087,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 2:11cv239-TMH
)	
DR. JEAN DARBOUZE,)	
)	
Defendants.)	

ORDER AND OPINION

On August 29, 2011, the Magistrate Judge filed a Recommendation in this case to which no timely objections have been filed. (Doc. # 11). 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:

1. The motion to dismiss filed by defendant Darbouze is GRANTED to the extent that defendant seeks dismissal of this case due to plaintiff's failure to properly exhaust an administrative remedy currently available to him at the Easterling Correctional Facility.

2. This case is DISMISSED without prejudice pursuant to the provisions of 42 U.S.C. § 1997e(a) for the plaintiff's failure to exhaust an administrative remedy presently available to him at the Easterling Correctional Facility.

Done this the 20th day of September, 2011.

/s/ Truman M. Hobbs

SENIOR UNITED STATES DISTRICT JUDGE