

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

CALVIN MAYS, JR.,)	
AIS #150299,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 2:11-CV-694-CSC
)	[WO]
)	
MARIANNE BAKER, et al.,)	
)	
Defendants.)	

MEMORANDUM OPINION

This cause of action is pending before the court on a 42 U.S.C. § 1983 complaint filed by Calvin Mays, Jr. [“Mays”], a state inmate, on August 25, 2011. In his complaint, Mays challenges the adequacy of medical treatment provided to him for pain in his hands by medical personnel at the Kilby Correctional Facility. Pursuant to 28 U.S.C. § 636(c), the parties have consented to entry of final judgment by the United States Magistrate Judge.

Pursuant to the orders of this court, the defendants filed a written report supported by relevant evidentiary materials, including affidavits and medical records, in which they addressed the claims for relief presented by Mays. The report and evidentiary materials refute the self-serving, conclusory allegations presented in the instant cause of action. Specifically, the undisputed evidentiary materials indicate the defendants provided medical treatment to the plaintiff in accordance with their professional judgment and, in so doing, did not act in violation of the plaintiff's constitutional rights. The court thereafter issued an order

directing Mays to file a response to the written report. *Order of September 27, 2011 - Court Doc. No. 19*. The order advised Mays that his failure to respond to the defendants' written report would be treated by the court **“as an abandonment of the claims set forth in the complaint and as a failure to prosecute this action.”** *Id.* at 1 (emphasis in original). Additionally, the order **“specifically cautioned [the plaintiff] that [his failure] to file a response in compliance with the directives of this order”** would result in the dismissal of this civil action. *Id.* The time allotted Mays for filing a response in compliance with the directives of this order expired on October 17, 2011. As of the present date, Mays has failed to file a requisite response in opposition to the defendants' written report. In light of the foregoing, the court concludes that this case should be dismissed.

The court has reviewed the file in this case to determine whether a less drastic measure than dismissal is appropriate. After such review, it is clear that dismissal of this case without prejudice is the proper course of action. Mays is an indigent inmate. Thus, the imposition of monetary or other punitive sanctions against him would be ineffectual. Additionally, Mays has exhibited a lack of deference for this court and its authority as he has failed to comply with the directives of the orders entered in this case. It is therefore apparent that any additional effort by this court to secure his compliance would be unavailing. Consequently, the court concludes that the plaintiff's abandonment of his claims, his failure to comply with the orders of this court and his failure to properly continue prosecution of this cause of action warrant dismissal of this case.

A separate order will accompany this memorandum opinion.

Done this 22nd day of November, 2011.

/s/Charles S. Coody
CHARLES S. COODY
UNITED STATES MAGISTRATE JUDGE