

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

| | | |
|--|---|-----------------------------------|
| TY'JUAN LAMONT JONES, |) | |
| #271 901, |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | CIVIL ACTION NO. 2:11-CV-1031-TMH |
| |) | [WO] |
| VICTORIOUS FELDER, CO, <i>et al.</i> , |) | |
| |) | |
| Defendants. |) | |

ORDER AND RECOMMENDATION OF THE MAGISTRATE JUDGE

For good cause, it is

ORDERED that the stay imposed in this matter on May 31, 2012 (*Doc. No. 24*) is LIFTED.

On April 20, 2012, Plaintiff Ty'Juan Jones died. Pursuant to the provisions of Rule 25, *Federal Rules of Civil Procedure*, Defendants filed, as the rule requires, a suggestion of death for Plaintiff Jones on May 30, 2012. (*See Doc. No. 23.*) More than ninety days has passed since the suggestion upon the record of the death of Plaintiff Jones was made by service of a statement of the fact of death and no motion for substitution has been filed.

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that:

1. Plaintiff Jones be DISMISSED as a party to this cause of action pursuant to the provisions of Rule 25, *Federal Rules of Civil Procedure*;
2. This action be DISMISSED with prejudice, no costs taxed.

It is further

ORDERED that on or before **September 24, 2012** the parties may file an objection to the Recommendation. Any objection filed must specifically identify the findings in the Magistrate Judge's Recommendation to which a party objects. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and advisements in the Magistrate Judge's Recommendation shall bar the party from a de novo determination by the District Court of issues covered in the Recommendation and shall bar the party from attacking on appeal factual findings in the Recommendation accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982). *See Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11th Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981, *en banc*), adopting as binding precedent all of the decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

Done, this 6th day of September 2012.

/s/Terry F. Moorer
TERRY F. MOORER
UNITED STATES MAGISTRATE JUDGE