

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

DENNIS DIFFER, #236916,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO. 2:12cv065-WHA
	)	
M. SMITH,	)	(WO)
	)	
Defendant.	)	

**ORDER**

On July 8, 2013, the Magistrate Judge entered a Recommendation (Doc. #46) that this case be dismissed without prejudice. On August 5, 2013, the Plaintiff filed, by mailing through the prison mail, a document (Doc. #49) entitled “ExParte Response to Magistrate Judge’s Recommendation.” In this Response, the Plaintiff agreed with the Recommendation of a dismissal without prejudice. Therefore, the Recommendation is ADOPTED, and it is hereby ORDERED that this case is DISMISSED without prejudice.

Plaintiff’s Response also, however, contained the following request:

Plaintiff would like this Court’s Senior Judge to grant him the opportunity to submit a motion/petition before this court dealing with the doctrines of “CONTINUING TORT THEORY” or “Continuing Violation Doctrine” involving tolling the Statute of limitations also relevant to conspiracy and coverup. Plaintiff requests this Court to grant him the opportunity to construct and (given sufficient time) to submit such to maintain his rights to relief from the continuous/ongoing deprivations and violations ADOC officials are subjecting him to.”

This request is outside the scope of this suit which is being dismissed without prejudice, and is not appropriate for the court to consider. Therefore, it is ORDERED that this request is DENIED.

Final Judgment will be entered.

DONE this 29th day of August, 2013.

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