

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

TERRY ARMSTRONG, #172250,)	
)	
Plaintiff,)	
)	
vs.)	CIVIL ACTION NO. 2:12cv647-WHA
)	
CAROLYN GOLSON, et al.,)	(WO)
)	
Defendants.)	

ORDER

This case is before the court on the Recommendation of the Magistrate Judge (Doc. #4), and objections filed by the Plaintiff (Doc. #5).

This is a 42 U.S.C. § 1983 action in which the Plaintiff, a state inmate, challenges actions of correctional officials with respect to his classification as a restricted offender. Following a *de novo* review and independent evaluation of this matter, the court finds the objections to be without merit.

Armstrong filed objections to the Recommendation in which he argues that the Magistrate Judge improperly recommended dismissal of his equal protection claim because he met his burden under Rule 8 of the Federal Rules of Civil Procedure requiring that he set forth a short and plain statement for relief. This assertion in no way undermines the finding in the Recommendation, as the Magistrate Judge did not recommend dismissal of the equal protection claim due to the plaintiff’s failure to comply with the directives of Rule 8. Armstrong based this claim solely on the alleged differential treatment of inmates, which, as explained in the Recommendation, does not constitute a violation of the Equal Protection Clause. Armstrong

does not dispute his failure to present a sufficient factual basis for his equal protection claim.

Armstrong also challenges the construction of his complaint to allege a due process violation when he was merely arguing that his classification violated the policies of the ADOC and of the Alabama Administrative Procedures Act. The court agrees with the Magistrate Judge that this allegation provides no basis for relief in a 42 U.S.C. § 1983 action.

Based on the foregoing, the objections are hereby OVERRULED. The court ADOPTS the Recommendation of the Magistrate Judge, and it is hereby

ORDERED that this case is DISMISSED with prejudice prior to service of process in accordance with the directives of 28 U.S.C. § 1915(e)(2)(B)(i), (ii) and (iii).

DONE this 29th day of August, 2012.

/s/ W. Harold Albritton

W. HAROLD ALBRITTON

SENIOR UNITED STATES DISTRICT JUDGE