

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

JEFFREY SCOTT CLEGG, #276 457,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.: 2:13-CV-283-TMH
)	[WO]
MR. KIM THOMAS, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER AND RECOMMENDATION OF THE MAGISTRATE JUDGE

Before the court is Plaintiff’s motion to dismiss complaint without cost. Plaintiff asserts that he fears retribution from the Alabama Department of Corrections if he continues to prosecute this action which he claims may impact his ability to be paroled. Upon consideration of Plaintiff’s motion, the court concludes that the motion is due to be granted. Furthermore, since the complaint has not been served, the court finds that this case is due to be dismissed without prejudice. *See* Rule 41(a)(1), *Federal Rules of Civil Procedure*. Additionally, the court will direct that its June 7, 2013 order (*Doc. No. 8*) directing payment of the filing fee from Plaintiff’s inmate account be suspended.

Accordingly, it is ORDERED that the directive in the court’s June 7, 2013 order directing payment of the filing fee from Plaintiff’s inmate account (*Doc. No. 8*) be SUSPENDED.

The Clerk is DIRECTED to send a copy of this Order to the account clerk at the Elmore Correctional Facility.

It is the RECOMMENDATION of the Magistrate Judge that:

1. Plaintiff's Motion to Dismiss (*Doc. No. 11*) be GRANTED;
2. This case be DISMISSED without prejudice; and
3. No costs or fees be taxed in this case.

It is further

ORDERED that Plaintiff may file an objection to the Recommendation on or before **July 5, 2013**. Any objection filed must specifically identify the findings in the Magistrate Judge's Recommendation to which Plaintiff objects. Frivolous, conclusive or general objections will not be considered by the District Court. Plaintiff is advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file a written objection to the proposed findings and recommendations in the Magistrate Judge's report shall bar the party from a *de novo* determination by the District Court of issues covered in the report and shall bar the party from attacking on appeal factual findings in the report 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 19th day of June 2013.

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