

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

STEPHANIE SUZANNE METZGER,)	
)	
Plaintiff,)	
)	
vs.)	CASE NO. 2:13cv-567-WHA
)	
JUDGE McGUIRE,)	(WO)
)	
Defendant.)	

ORDER

This case is before the court on the Plaintiff’s document captioned Motion to Appeal (Doc. #10). It appears from the file in this case that the Recommendation of the Magistrate Judge (Doc. #6), entered on October 23, 2013, may not have been received by the Plaintiff before this court considered it. With no timely objection having been filed, on November 13, 2013, the court adopted the Recommendation and entered a Final Order and Judgment. The court will now treat the document captioned “Motion to Appeal” as a Motion for Reconsideration of that Order and Judgment.

For the reason that the Plaintiff did not receive the Magistrate Judge’s Recommendation before entry of a Final Order and Judgment, the Motion for Reconsideration is GRANTED to the extent that the court will consider the contents of the motion as if it were an objection to the Recommendation.

After conducting an independent evaluation and *de novo* review of the file in this case, including the Recommendation and Plaintiff’s objection, the court finds the objection to be without merit, and it is hereby OVERRULED. The court agrees with the findings of the

Magistrate Judge set out in her Recommendation, the Recommendation is ADOPTED, and it is hereby ORDERED as follows:

1. The Order (Doc. #7) and Judgment (Doc. #8), entered in this case on November 13, 2013, are VACATED and SET ASIDE.

2. The Plaintiff's challenges to orders issued and/or actions taken by Judge Frank McGuire related to orders of restitution issued in criminal proceedings before the District Court of Covington County, Alabama are DISMISSED with prejudice in accordance with the directives of 28 U.S.C. § 1915(e)(2)(B)(i) and (ii).

3. The Plaintiff's challenges to the constitutionality of her Covington County convictions and current incarceration on the resulting sentences are DISMISSED without prejudice pursuant to the provisions of 28 U.S.C. § 1915(e)(2)(B)(ii) as such claims are not properly before the court in this action.

4. This case is DISMISSED prior to service of process in accordance with the provisions of 28 U.S.C. § 1915(e)(2)(B)(i) and (ii).

DONE this 30th day of January, 2014.

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