

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

JODY GREGORY CLARKE, #233 607,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO. 2:13-CV-639-WHA
	)	[WO]
DARRYL D. MALDON, COI, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**RECOMMENDATION OF THE MAGISTRATE JUDGE**

On September 6, 2013, the undersigned directed Plaintiff to forward to the court an inmate account statement reflecting the average monthly balances and deposits to his prison account for the 6-month period immediately preceding the filing of this complaint to assist the court in determining whether he should be allowed to proceed *in forma pauperis* in this cause of action. *Doc. No. 3*. Upon consideration of the account information submitted by Plaintiff on September 27, 2013, the court directed Plaintiff by order entered October 4, 2013, to provide it with information regarding his inmate account from the institution in which he was incarcerated prior to being transferred to the Kilby Correctional Facility. *Doc. No. 5*. Plaintiff was cautioned that his failure to comply with the October 4 order would result in a Recommendation that his complaint be dismissed. *Id.* By order entered November 8, 2013, the court directed Plaintiff to show cause why his case should not be dismissed for his failure to comply with the October 4, 2013, order regarding the filing of an inmate account statement from the Ventress Correctional Facility. *Doc. No. 6*.

The requisite time has passed and Plaintiff has not provided the court with his inmate account statement from the Ventress Correctional Facility nor has he responded to the court's November 8 order to show cause. Consequently, the court concludes that dismissal of this case is appropriate for Plaintiff's failures to comply with the orders of the court and to prosecute this action.

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be DISMISSED without prejudice for Plaintiff's failures to comply with the orders of this court and to prosecute this action.

It is further

ORDERED that **on or before January 17, 2014**, Plaintiff may file an objection to the Recommendation. 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 a party from a *de novo* determination by the District Court of issues covered in the report and shall bar a 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 (5<sup>th</sup> Cir. 1982). *See Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11<sup>th</sup> Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11<sup>th</sup> 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 3<sup>rd</sup> day of January, 2014.

/s/ Susan Russ Walker  
SUSAN RUSS WALKER  
CHIEF UNITED STATES MAGISTRATE JUDGE