

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

MELVIN SMITH,)
)
 Plaintiff,)
)
 v.) CIVIL ACT. NO. 2:16cv919-RAH
)
 WARDEN WALTER MYERS, *et al.*,)
)
 Defendants.)

ORDER

On December 30, 2019, the Magistrate Judge issued a Recommendation, (Doc. 30), to grant the Defendants’ Motions for Summary Judgment, (Docs. 13, 22). Pending before the Court are Plaintiff’s Objections to the Recommendation. (Doc. 5.) Plaintiff Melvin Smith, proceeding *pro se*, states that he agrees in part with the Magistrate Judge’s recommendation to dismiss the case. He, however, objects to the recommendation that taxes costs against him and that the case should be dismissed “with prejudice.”

After reviewing the pleadings and the record and, considering Plaintiff’s specific Objections to the Magistrate Judge’s Recommendation, the Court agrees with the Magistrate Judge’s determination that there is no due process claim available to the Plaintiff based on the Defendants’ alleged failure to provide him with copies of his prison medical or mental health records for the purpose of

substantiating a claim for benefits with the United States Department of Veterans Affairs (“the VA”). Thus, the case is due to be dismissed.

The Magistrate Judge also determined Smith’s request for equitable relief should be denied as moot because he was released from prison. The Court, however, cannot discern whether the Alabama Department of Corrections (“ADOC”) provided the requested medical and mental health records to Smith and/or the VA upon Smith’s release from prison. Out of an abundance of caution, the Court concludes dismissal of the requested relief should be without prejudice to allow Smith the opportunity to pursue his request for his ADOC mental and medical records through the proper administrative process. Consequently, to the extent the Plaintiff objects to the dismissal of the case “with prejudice” and the taxation of costs against him, his objections are SUSTAINED in part.

Accordingly, it is

ORDERED that, to the extent the Magistrate Judge recommends the Motions for Summary Judgment be granted in favor of the Defendants and this case be dismissed, the RECOMMENDATION is ADOPTED.

It is further

ORDERED as follows:

(1) The Motions for Summary Judgment be GRANTED in favor of the Defendants. (Docs. 13, 22.)

(2) To the extent the Plaintiff seeks equitable relief, the claims against the Defendants be DISMISSED without prejudice.

(3) The remaining claims, including the due process claim, against the Defendants be DISMISSED with prejudice.

(4) Each party shall bear his or her own costs.

DONE, this 19th day of August, 2020.

/s/ R. Austin Huffaker, Jr.

R. AUSTIN HUFFAKER, JR.
UNITED STATES DISTRICT JUDGE