

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

ADAM CASTLEBERRY,)
#212769,)
)
Plaintiff,)
)
v.)
)
WILCOTT RAHMING,)
)
Defendant.)

CASE NO. 2:17-CV-252-WKW
[WO]

ADAM CASTLEBERRY,)
#212769,)
)
Plaintiff,)
)
v.)
)
WILCOTT RAHMING,)
)
Defendant.)

CASE NO. 2:17-CV-656-WKW
[WO]

ORDER

On September 5, 2017, the court entered an order adopting the report and recommendation of the Magistrate Judge (Doc. # 7), and entered final judgment dismissing the case without prejudice (Doc. # 8). Upon receiving Plaintiff Adam Castleberry's response, which the court construed as a motion for extension of time to submit the partial filing fee, the court then vacated the order and judgment, and

granted Mr. Castleberry an extension of time to submit the partial filing fee of \$12.50 by October 12, 2017. (Doc. # 10.) That date having come and gone without any payment received by Mr. Castleberry, the Recommendation of the Magistrate Judge (Doc. # 4), and Mr. Castleberry's objections thereto (Doc. # 5), is once again before the court.

The court has conducted an independent and *de novo* review of those portions of the Recommendation to which objection is made. *See* 28 U.S.C. § 636(b). The Recommendation favored dismissal of Mr. Castleberry's complaint under 28 U.S.C. § 1915(b)(1)(A) for his failure to pay the initial partial filing fee. Mr. Castleberry objected to this disposition on the grounds that he had filed multiple requests to pay the fee from his prisoner account, and that he planned to send in another such request. On this basis, the Magistrate Judge then granted Mr. Castleberry an extension, ordering that he pay the partial fee on or before July 28, 2017. (Doc. # 6.) As recounted above, Mr. Castleberry has still not paid the fee—even after the additional extension to October 12, 2017—so the Recommendation is due to be adopted.

Accordingly, it is ORDERED that:

1. The Recommendation of the Magistrate Judge (Doc. # 4) is ADOPTED;
2. Mr. Castleberry's objections (Doc. # 5) are OVERRULED;

3. This case is DISMISSED without prejudice for Plaintiff's failure to pay the initial partial filing fee.

A final judgment will be entered separately.

DONE this 16th day of November, 2017.

/s/ W. Keith Watkins
CHIEF UNITED STATES DISTRICT JUDGE