

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

CORNELIUS JARMAINE MILNER,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 3:07cv165-MHT
)	(WO)
BLAKE JENNINGS, et al.,)	
)	
Defendants.)	

ORDER

On December 15, 2008, the magistrate judge filed a recommendation in this case to which no timely objections have been filed. Upon an independent and de novo review of the file in this case and upon consideration of the recommendation of the magistrate judge, it is ORDERED and ADJUDGED that the recommendation of the magistrate judge (Doc. # 31) is adopted and that:

1. Defendant Moss is dismissed without prejudice as a party to the complaint for plaintiff's failure to effect service on this individual, *see* Rule 4(m), *Federal Rules of Civil Procedure*;

2. Defendants Abbett, Jennings, and Cowart's motion for summary judgment (Doc. # 17) is granted to the extent that these defendants seek dismissal of this case due to plaintiff's failure to exhaust an administrative remedy;

3. This case is dismissed without prejudice in accordance with the provisions of 42 U.S.C. § 1997e(a), *Woodford v. Ngo*, ___ U.S. ___, 126 S.Ct. 2378 (2006); and

4. No costs are taxed herein.

DONE, this the 30th day of January, 2009.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE