

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

WILLIAM LANIER ELLIS, SR., #259380,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 3:09-CV-655-MHT
)	[WO]
)	
LORETTA HOLLAND, et al.,)	
)	
Defendants.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

William Lanier Ellis, Sr. [“Ellis”], a state inmate and frequent litigant in this court, filed the instant complaint challenging the conditions of confinement – i.e., placement in solitary confinement, lack of access to religious activities, and denial of adequate physical exercise – to which he was subjected during his incarceration in the Russell County Jail in the latter part of 2007 and 2008. Ellis also challenges the constitutionality of medical treatment provided to him regarding a surgery performed on February 1, 2008. On July 28, 2009, Ellis filed an amendment to his complaint in which he seeks to dismiss officer Parham and Sgt. Michael San Nicholas as defendants because "they were not in violation of [his] constitutional rights." *Amendment to Complaint - Court Doc. No. 10* at 7. The court therefore construes this portion of the pleading to contain a motion to dismiss officer Parham and Sgt. Michael San Nicholas as defendants in this cause of action

Upon consideration of the plaintiff’s motion to dismiss, the court concludes that this

motion is due to be granted. Furthermore, since the plaintiff concedes that officer Parham and Sgt. Michael San Nicholas were not in any way involved with the actions about which he complains, the court discerns that any claims against these individuals should be dismissed with prejudice.

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that:

1. The plaintiff's motion to dismiss be GRANTED.
2. The plaintiff's claims against officer Parham and Sgt. Michael San Nicholas be dismissed with prejudice.
3. Officer Parham and Sgt. Michael San Nicholas be dismissed as parties to this cause of action.
4. This case, with respect to the plaintiff's claims against the remaining defendants, be referred back to the undersigned for additional proceedings.

It is further

ORDERED that on or before September 7, 2009 the parties may file objections to the Recommendation. Any objections filed must specifically identify the findings in the Magistrate Judge's Recommendation to which the party is objecting. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and advisements in the

Magistrate Judge's Recommendation shall bar the party from a de novo determination by the District Court of issues covered in the Recommendation and shall bar the party from attacking on appeal factual findings in the Recommendation accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982). *See Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11th Cir. 1982). *See also Bonner v. City of Prichard*, 661 F.2d 1206 (11th 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 26th day of August, 2009.

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