

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
EASTERN DIVISION**

MICHAEL T. MILLENDER,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 1:17-cv-00623-MHH-TMP
	)	
JUDGE JEB FANNIN, et al.,	)	
	)	
Defendants.	)	

**MEMORANDUM OPINION**

On December 1, 2017, the magistrate judge entered a report in which he recommended, pursuant to 28 U.S.C. § 1915A(b)(1), that the Court dismiss this action without prejudice for failing to state a claim upon which relief can be granted. (Doc. 8). The magistrate judge advised plaintiff Michael T. Millender of his right to file objections within 14 days. (Doc. 8, p. 12). To date, Mr. Millender has not filed objections to the magistrate judge’s report and recommendation.<sup>1</sup>

A district court “may accept, reject, or modify, in whole or part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). A

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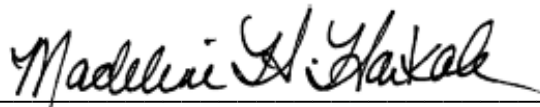
<sup>1</sup> On December 1, 2017, the Clerk mailed a copy of the report and recommendation to Mr. Millender at his address of record at the Talladega County Jail. (December 1, 2017 staff note). On December 7, 2017, the Postal Service returned the mail as undeliverable with a notation that Mr. Millender no longer was incarcerated at the Talladega County Jail. (Doc. 9). On December 13, 2017, the Clerk mailed a copy of the report and recommendation to Mr. Millender at his updated address at the Bibb Correctional Facility. (See Doc. 10; December 13, 2017 staff note). The Postal Service has not returned this copy of the report and recommendation.

district court reviews legal conclusions in a report de novo and reviews for plain error factual findings to which no objection is made. *Garvey v. Vaughn*, 993 F.2d 776, 779 n.9 (11th Cir. 1993); *see also LoConte v. Dugger*, 847 F.2d 745, 749 (11th Cir. 1988); *Macort v. Prem, Inc.*, 208 Fed. Appx. 781, 784 (11th Cir. 2006).<sup>2</sup>

Having reviewed the complaint and the report and recommendation, the Court finds no misstatements of law in the report and no plain error in the magistrate judge's description of the relevant facts. Therefore, the Court adopts the magistrate judge's report and accepts his recommendation that the Court dismiss this action without prejudice pursuant to 28 U.S.C. § 1915A(b)(1) for failing to state a claim upon which relief can be granted.

The Court will enter a final judgment consistent with this memorandum opinion.

**DONE** and **ORDERED** this January 22, 2018.

  
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**MADELINE HUGHES HAIKALA**  
UNITED STATES DISTRICT JUDGE

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<sup>2</sup> When a party objects to a report in which a magistrate judge recommends dismissal of the action, a district court must “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. §§ 636(b)(1)(B)-(C).