

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

DUANE FANNING, III, )  
 )  
 Plaintiff )  
 )  
 vs. )  
 )  
 RICKEY CUNNINGHAM, et al., )  
 )  
 Defendants )

Case No. 2:13-cv-01988-SLB-HGD

**MEMORANDUM OF OPINION**

The magistrate judge filed a report on October 8, 2015, recommending that the defendants’ special report be treated as a motion for summary judgment and, as such, that it be granted and this action dismissed with prejudice. (Doc. 16). No objections have been filed by any party.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, the Court is of the opinion that the magistrate judge’s report is due to be and hereby is **ADOPTED** and the recommendation is **ACCEPTED**. The Court **EXPRESSLY FINDS** that there are no genuine issues of material fact and the defendants are entitled to judgment as a matter of law. Accordingly, the defendants’ motion for summary judgment is due to be

GRANTED and this action is due to be DISMISSED WITH PREJUDICE. A Final Judgment will be entered contemporaneously herewith.

DATED this 30th day of November, 2015.

*Sharon Lovelace Blackburn*

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SHARON LOVELACE BLACKBURN  
SENIOR UNITED STATES DISTRICT JUDGE