

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

PORTER ALLEN BATTS,)
)
Petitioner,)
vs.)
)
COMMISSIONER/WARDEN, et)
al.,)
)
Respondents.)

Civil Action Number
5:12-cv-2981-AKK-MHH

MEMORANDUM OPINION

On September 21, 2012, the magistrate judge entered a report and recommendation. Doc. 4. The parties were allowed to file objections to the recommendations up until October 9, 2012. *See id.* Neither party has filed any objections.

After careful consideration of the record in this case and the magistrate judge’s report and recommendation, the court hereby **ADOPTS** the report of the magistrate judge. The court further **ACCEPTS** the recommendation of the magistrate judge that this action be dismissed without prejudice for Petitioner’s failure to exhaust available state remedies. Doc. 4.

DONE the 10th day of May, 2013.



ABDUL K. KALLON
UNITED STATES DISTRICT JUDGE

United States Court of Appeals

Eleventh Circuit
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

John Ley
Clerk

In Reply, Please Give Number
Of Case and Names of Parties

NOTICE TO PRISONERS CONCERNING CIVIL APPEALS

The Prison Litigation Reform Act of 1995 (effective April 26, 1996) now **REQUIRES** that all prisoners pay the Court's \$450 docket fee plus \$5 filing fee (for a total of \$455) when appealing any civil judgment.

If you wish to appeal in a civil case that Act now **requires** that upon filing a notice of appeal you *either*:

- (1) Pay the total \$455 fee to the clerk of the district court from which this case arose; *or*
- (2) arrange to have a prison official certify to the district court from which the appeal arose the average monthly deposits and balances in your prison account for each of the six months preceding the filing of a notice of appeal.

If you proceed with option (2) above, the Act requires that the district court order you to pay an *initial partial fee* of at least 20% of the **greater** of either the average monthly deposits or of the average monthly balances shown in your prison account. The remainder of the total \$455 fee will thereafter be deducted from your prison account each month that your account balance exceeds \$10. Each such monthly deduction shall equal 20% of all deposits to your prison account during the previous month, until the total \$455 fee is paid. (If your prison account statement shows that you cannot pay even the required *initial partial fee*, your appeal may nevertheless proceed, **BUT THE TOTAL \$455 FEE WILL BE ASSESSED AGAINST AND WILL BE DEDUCTED FROM FUTURE DEPOSITS TO YOUR PRISON ACCOUNT.**)

Fees are not refundable, regardless of outcome, and deductions from your prison account will continue until the total \$455 fee is collected, even if an appeal is unsuccessful.

John Ley
Clerk