

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

ROY MICHAEL CANNON,)	
)	
Plaintiff,)	
)	
v.)	Case No. 5:13-cv-01299-WMA-PWG
)	
WARDEN BILLY MITCHEM, <i>et al.</i> ,)	
)	
Defendants.)	

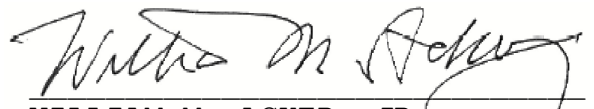
MEMORANDUM OF OPINION

The magistrate judge filed a report on February 26, 2014, recommending that this action be dismissed without prejudice for failing to state a claim upon which relief can be granted, pursuant to 28 U.S.C. § 1915A(b)(1). The plaintiff filed objections to the report and recommendation on March 12, 2014. As part of his objections, he contends the magistrate judge was without authority to enter the report and recommendation absent consent of the parties. This assertion is erroneous. The provisions of 28 U.S.C. § 636(b)(1)(B) allow for the designation of a magistrate judge to conduct hearings and submit proposed findings of fact and recommendations for disposition of cases, including “prisoner petitions challenging conditions of confinement.” *Id.* Therefore, “[a]lthough consent of the parties is required for a magistrate judge to enter judgment in a case, it is not required for actions taken under § 636(b).” *U.S. v. Varnado*, 447 Fed.Appx. 48, 49-50 (11th Cir. 2011); *citing Thomas v. Whitworth*, 136 F.3d 756, 758 (11th Cir. 1998).

The remainder of the plaintiff’s objections are equally meritless. Accordingly, having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the objections thereto, the Court is of the opinion that the magistrate judge's

report is due to be and is hereby ADOPTED and the recommendation is ACCEPTED. Therefore, in accordance with 28 U.S.C. § 1915A(b)(1), this action is due to be dismissed without prejudice for failing to state a claim upon which relief can be granted. A Final Judgment will be entered contemporaneously herewith.

DATED this 20th day of March, 2014.


WILLIAM M. ACKER, JR.
UNITED STATES DISTRICT JUDGE