

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

VERTIS JEROME ANTHONY,)	
)	
Plaintiff,)	
)	
v.)	Case No. 5:16-cv-00164-LSC-SGC
)	
STATE OF ALABAMA, et al.,)	
)	
Defendants.)	

MEMORANDUM OPINION

On December 14, 2016, the magistrate judge entered a report recommending the plaintiff's Eighth Amendment medical claims against the State of Alabama, the Alabama Department of Corrections (ADOC), Corizon, Warden Gordy, and Nurse Steward be dismissed without prejudice, pursuant to 28 U.S.C. § 1915A(b)(1), for failing to state a claim upon which relief can be granted. (Doc. 6). The magistrate judge further recommended that the plaintiff's Eighth Amendment medical claims against Warden Boyd, Nurse Flowers, and Nurse Parker be transferred to the United States District Court for the Middle District of Alabama pursuant to 28 U.S.C. §§ 1404(a) and 1406(a). (*Id.*). On January 19, 2017, the plaintiff moved for an extension of time to file objections to the report and recommendation. (Doc. 8). On January 26, 2017, the plaintiff filed objections. (Docs. 9, 10). Therefore, the plaintiff's motion for an extension of time is **MOOT**.

In his objections, the plaintiff reasserts that he has been denied adequate medical care during his incarceration. (Doc. 9 at 2-3; Doc. 10 at 5). However, the plaintiff does not address that the State of Alabama and its agencies are immune from money damages or that he failed to sufficiently allege facts in his amended complaint to state a claim for relief against defendants Corizon, Warden Gordy, or Nurse Steward. Further, the plaintiff does not address that his claims against defendants Boyd, Flowers, and Parker occurred at Draper Correctional Facility and, therefore, should be transferred to the United States District Court for the Middle District of Alabama.¹

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, and the objections thereto, the magistrate judge's report is **ADOPTED** and the recommendation is **ACCEPTED**. Therefore, in accordance with 28 U.S.C. § 1915A(b)(1), the plaintiff's Eighth Amendment medical claims against the State of Alabama, ADOC, Corizon, Warden Gordy, and Nurse Steward are due to be dismissed without prejudice for failing to state a claim upon which relief can be granted. Additionally, the plaintiff's Eighth Amendment medical claims against Warden Boyd, Nurse Flowers, and Nurse Parker are due to be transferred to the United States District

¹ To the extent the plaintiff alleges additional claims in his objections that were not set forth in his amended complaint, such as discriminatory conduct and equal protection and ex post facto violations, such claims are not properly before the court. (Doc. 10). The magistrate judge specifically notified the plaintiff that "[o]bjections should not contain new allegations, present additional evidence, or repeat legal arguments." (Doc. 6 at 13).

Court for the Middle District of Alabama pursuant to 28 U.S.C. §§ 1404(a) and 1406(a).

A Final Judgment will be entered.

DONE AND ORDERED ON MARCH 13, 2017.



A handwritten signature in black ink, appearing to read 'L. Scott Coogler', is written over a horizontal line.

L. SCOTT COOGLER
UNITED STATES DISTRICT JUDGE

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