

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

JERMAINE MITCHELL,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CASE No. 6:11-CV-4105-SLB-JEO
	)	
COMMISSIONER KIM THOMAS, et al.,	)	
	)	
Defendants.	)	

MEMORANDUM OF OPINION

The magistrate judge filed a report and recommendation on February 28, 2012, recommending that this action filed pursuant to 42 U.S.C. § 1983 be dismissed under 28 U.S.C. § 1915A(b) for failing to state a claim upon which relief may be granted. On March 23, 2012, the plaintiff filed another amended complaint as his objections to the report and recommendation.

In this amended complaint (doc. 10), the plaintiff attempts to enhance his claims by claiming that the actions of the defendants are discriminatory and he has been injured by their actions. The plaintiff has still not explained how his constitutional rights have been violated, or who is responsible for violating them except for Governor Bentley.

The plaintiff continues to complain that he is being subjected to cruel and unusual punishment in violation of the Eighth Amendment by the defendants who have intentionally created overcrowded prisons. The plaintiff complains that Governor Bentley is awarding good time credit to non-violent habitual offenders with sentences of fewer than fifteen years, in violation of the state statute which provides that habitual offenders are not eligible to receive good time credit. According to the plaintiff, this practice is discriminatory and is causing the prisons to be overcrowded. The

plaintiff goes on to claim that the overcrowded conditions have caused him to be exposed to tuberculosis and quarantined, have reduced the portions of food served, caused a change in the food served, and have reduced the rehabilitation services for inmates with disabilities. The plaintiff also alleges a correlation between the overcrowding and the guards using excessive force. The plaintiff claims that he has “been beat [sic], abused physically, mentally attacked, and [given] several false disciplinary [sic] by one specific officer and one specific shift.” (Doc. 10, p.6) The plaintiff’s vague and conclusory allegations do not state a claim for which relief can be granted.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, and the plaintiff’s response in the form of an amended complaint, 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. Accordingly, the complaint is due to be dismissed pursuant to 28 U.S.C. § 1915A(b) for failing to state a claim upon which relief may be granted. A Final Judgment will be entered.

**DONE**, this 28th day of September, 2012.



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SHARON LOVELACE BLACKBURN  
CHIEF UNITED STATES DISTRICT JUDGE