

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

DELANO RENEE FULLER,)	
)	
)	
Plaintiff,)	
)	
v.)	Case No.: 6:13-cv-01766-RDP-SGC
)	
CAPT. JIM GATES, et. al.,)	
)	
Defendants.)	

MEMORANDUM OPINION

On January 12, 2015, the Magistrate Judge filed a report recommending that Plaintiff’s first motion to amend his complaint (Doc. 12) be granted and this action be dismissed for failure to state a claim on which relief may be granted pursuant to 28 U.S.C. § 1915A(b)(1) and/or (2). (Doc. 18). On February 4, 2015, Plaintiff filed objections to the report and recommendation. (Doc. 21). Contained within Plaintiff’s objections is what purports to be a second motion to amend the complaint prefaced by the statement it is made “in recap and an attempt to give a closing argument in the hope of no over-sights.” (*Id.* at 14-21). Also pending is Plaintiff’s motion requesting an evidentiary hearing. (Doc. 17).¹

Plaintiff’s objections consist largely of restatement of arguments he has already presented regarding threats, disciplinary infractions, and work release issues. The Magistrate Judge considered and correctly rejected these arguments, and Plaintiff’s restatement of these arguments does not alter

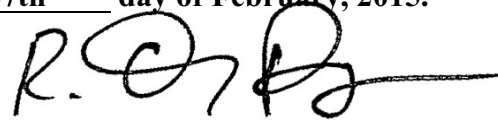
¹ In this particular motion, Plaintiff also indicates his willingness to settle his claim against Captain Jim Gates and inquires as to whether Captain Gates has made a settlement offer. Captain Gates has not been served with a copy of Plaintiff’s complaint because this case is still at the § 1915A screening step.

the recommendation made by the Magistrate Judge. Accordingly, these objections are **OVERRULED**.

That portion of Plaintiff's submission purporting to be a motion to amend the complaint largely repeats Plaintiff's objections to the report and recommendation. (*See* Doc. 21 at 14-21). To the extent Plaintiff requests to amend his complaint for a second time, that request is **DENIED**. Plaintiff was already afforded a chance to amend his complaint, and the filing of objections is not a proper vehicle through which to make new allegations or present additional evidence. Furthermore, even if the additional facts and exhibits underlying Plaintiff's request to amend are considered, Plaintiff has still failed to state a claim on which relief may be granted.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the response thereto, the court is of the opinion that the Magistrate Judge's report is due to be and is hereby **ADOPTED** and her recommendation is **ACCEPTED**. Accordingly, Plaintiff's first motion to amend his complaint (Doc. 12) is **GRANTED**, any second motion to amend the complaint contained in Plaintiff's objections to the report and recommendation (Doc. 21) is **DENIED**, Plaintiff's motion for an evidentiary hearing (Doc. 17) is **DENIED**, and this action is **DISMISSED** pursuant to 28 U.S.C. § 1915A(b)(1) and/or (2) for failure to state a claim on which relief may be granted. A Final Judgment will be entered.

DONE and ORDERED this 27th day of February, 2015.



R. DAVID PROCTOR
UNITED STATES DISTRICT JUDGE

