

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

KENNETH TONEY, AIS #208227, :

Plaintiff, :

vs. : **CIVIL ACTION 07-00079-CG-B**

LT. FUQUA, :

Defendant. :

JUDGMENT

It is **ORDERED, ADJUDGED, and DECREED** that this action be and is hereby **DISMISSED without prejudice** for failure to state a claim upon which relief can be granted and as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) and (ii).

DONE and ORDERED this 20th day of May, 2009.

/s/ Callie V. S. Granade
CHIEF UNITED STATES DISTRICT JUDGE