

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

**ANDREW JACKSON SMITH,  
AIS# 228252,**

:

**Plaintiff,**

:

**vs.**

:

**CIVIL ACTION 07-0268-CG-B**

**TROY KING, et al.,**

:

**Defendants.**

:

**ORDER**

After due and proper consideration of all portions of this file deemed relevant to the issues raised, and there having been no objections filed, the Report and Recommendation of the Magistrate Judge made under 28 U.S.C. § 636(b)(1)(B) is **ADOPTED** as the opinion of this Court. It is **ORDERED** that this action be and is hereby **DISMISSED** with prejudice prior to service of process pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) and (ii) because the plaintiff's claims either fail to state a claim upon which relief can be granted or are frivolous.

The Clerk is **DIRECTED** to send to the Commissioner of the Alabama Department of Corrections a copy of the Report and Recommendation, of this Order adopting the Report and Recommendation, and of the Judgment.

**DONE and ORDERED** this 9<sup>th</sup> day of June, 2009.

/s/ Callie V. S. Granade

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CHIEF UNITED STATES DISTRICT JUDGE