

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

**MARK STEPHEN FITZPATRICK,**  
**Plaintiff,**

vs.

**GEORGE HARDESTY,**  
**Defendant.**

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**CIVIL ACTION NO. 10-00275-KD-B**

**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) and dated September 21, 2010 is hereby **ADOPTED** as the opinion of this Court.

It is **ORDERED** that this action is hereby **DISMISSED** without prejudice for failure to prosecute and to obey the Court's order.

**DONE and ORDERED** this the **7<sup>th</sup>** day of **December 2010**.

/s/ Kristi K. DuBose  
**KRISTI K. DuBOSE**  
**UNITED STATES DISTRICT JUDGE**