

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

RASHAD LEE, #213823, :
 :
Plaintiff, :
 :
vs. : CIVIL ACTION 10-0396-KD-M
 :
DEBORAH TONEY, et al., :
 :
Defendants. :

ORDER

After due and proper consideration of all portions of this file deemed relevant to the issue 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)(A) and Rules 11(b) and 41(b) of the Federal Rules of Civil Procedure, that the Court retain the partial filing fee of \$28.00, and that the dismissal of this action count as a strike for the purpose of 28 U.S.C. § 1915(g) because it is malicious.

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

DONE this 12th day of September, 2011.

s/Kristi K. DuBose
KRISTI K. DuBOSE
UNITED STATES DISTRICT COURT