

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

DERIC LAVELLE MAY,)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 12-00703-KD-N
)	
TONY PATTERSON and MS. WHITE,)	
Defendants.)	

ORDER

This action is before the Court on the Magistrate Judge's pending Report and Recommendation (Doc. 14), to which objections are due by September 10, 2013, and the *pro se* Plaintiff's motion for a 21-day enlargement of time to file objections to same (Doc. 16).

The undersigned has conducted a *de novo* review of the Report and Recommendation and agrees with the Magistrate Judge's conclusions. Specifically, Plaintiff's claim is clearly frivolous. Accordingly, it is **ORDERED** that Plaintiff's motion for more time to object (Doc. 16) is **DENIED**, and the Report and Recommendation (Doc. 14) of the Magistrate Judge made under 28 U.S.C. § 636 (b)(1)(B) and dated August 21, 2013, is hereby **ADOPTED** as the opinion of this Court. As such, it is **ORDERED** that this action be **DISMISSED without prejudice**, prior to service of process, pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) because Plaintiff's action is malicious and/or 28 U.S.C. § 1915(e)(2)(B)(i) and (ii) because his damages claim is frivolous and his request for declaratory relief fails to state a claim upon which relief can be granted.

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 (Doc. 14), this Order adopting the Report and Recommendation, and the accompanying Judgment dismissing this action.

DONE and ORDERED this the 5th day of **September 2013**.

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