

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

DUANE EARL FANNING, III  
(AIS: 263799),

Plaintiff,

vs.

COI L. GRAHAM,

Defendant.

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CIVIL ACTION NO.13-00538-WS-B

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 Fanning's Motion to Proceed Without Prepayment of Fees (Doc. 2) be **DENIED**, that this action be dismissed without prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B)(i), and that this action be counted as a strike for purposes of future IFP eligibility under § 1915(g), in that it is malicious.

**DONE** this 6th day of January, 2014.

s/WILLIAM H. STEELE  
CHIEF UNITED STATES DISTRICT JUDGE