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

DUANE EARL FANNING, III (AIS: 263799),	:	
Plaintiff,	:	
vs.	:	**CIVIL ACTION NO. 13-00541-KD-B**
COI JOHN JONES,	:	
Defendant.	:	

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 (Doc. 3) of the Magistrate Judge made under 28 U.S.C. § 636(b)(1)(B) and dated December 5, 2013, is **ADOPTED** as the opinion of this Court.

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

Final judgment in accordance with this Order shall issue by separate document.

DONE and **ORDERED** this the **6th** day of **January 2014**.

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

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