

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

TIMOTHY GULLETT,	:	
Plaintiff,	:	
vs.	:	CIVIL ACTION NO. 11-00082-KD-M
ROGER GOODMAN, et al,	:	
Defendants.	:	

ORDER

This action is before the Court on plaintiff Timothy Gullett’s notice of change of address to Kilby Correctional Facility (doc. 28) and letters to the Court (docs. 29, 30). In his letters signed February 21 and 22, 2012, Gullett states that he received notice that his case has been dismissed and that he wants to re-file his lawsuit. The Court will construe his letters as a motion to vacate the order and judgment.¹ Therefore, upon consideration and for the reasons set forth herein, the order and judgment dismissing this action with prejudice are VACATED. The Clerk is directed to mail a copy of this order and the report and recommendation to Gullett at Kilby.

In October 2011, in response to this Court’s order converting the answer and special report into a motion for summary judgment, Gullett wrote that he wanted to continue to litigate this action (docs. 21, 22). His letters were mailed from the Dallas County Jail. The Court then mailed the report and recommendation to the Dallas County Jail on December 8, 201, and it was

¹ “*Pro se* pleadings are held to a less stringent standard than pleadings drafted by attorneys and will, therefore, be liberally construed.” *Hughes v. Lott*, 350 F.3d 1157, 1159-1160 (11th Cir. 2003) quoting *Tannenbaum v. United States*, 148 F.3d 1262, 1263 (11th Cir.1998) (*per curiam*).

returned on December 16, 2011 (docs. 23,24).² The report and recommendation was adopted by the Court on January 3, 2012, and the order and judgment were mailed to Gullett that day (docs. 25, 26). They were returned on January 17, 2012 (doc. 27).³ On February 16, 2012, Gullett filed his notice of change of address and soon thereafter wrote that he wanted to re-file his lawsuit.

The Court is without information as to when Gullett was transferred to Kilby, but it appears to have occurred at some time before mid-December when the report and recommendation were returned. Although Gullett did not provide the Court with notice of a new address until mid-February, Gullett is given the benefit of the doubt as to whether he promptly notified the Court of a change in address as previously ordered (docs. 7, 10).

DONE this 12th day of March, 2012.

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

² On return, the report and recommendation was marked “UTF” (unable to forward) and “return to sender” (doc. 24).

³ On return, the order and judgment adopting the report and recommendation were marked “out of jail”, “return to sender”, “undeliverable as addressed”, and “unable to forward” (doc. 27).