

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION**

JIMMY EARL DAVIS,

Plaintiff,

v.

CASE NO. 1:10cv29-MP-GRJ

FLORIDA DEPARTMENT OF
CORRECTIONS, et al.,

Defendants.

ORDER

This cause comes on for consideration upon the magistrate judge's Report and Recommendation dated September 30, 2011. (Doc. 40). The parties have been furnished a copy of the Report and Recommendation and have been afforded an opportunity to file objections pursuant to Title 28, United States Code, Section 636(b)(1). I have made a *de novo* determination of any timely filed objections.

Having considered the Report and Recommendation, and any objections thereto timely filed, I have determined that the Report and Recommendation should be adopted.

Accordingly, it is now ORDERED as follows:

1. The magistrate judge's Report and Recommendation is adopted and incorporated by reference in this order.
2. Plaintiff's Third Amended Complaint (doc. 36) is DISMISSED pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim upon which relief may be granted.

DONE and ORDERED this 12th day of December, 2011.

s/ M. Casey Rodgers

**M. CASEY RODGERS
CHIEF UNITED STATES DISTRICT JUDGE**