

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

SIDNEY MARTS, et al.,
Plaintiff,

vs.

Case No.: 3:08cv272/MCR/EMT

RON McNESBY, et al.,
Defendants.

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ORDER

This cause comes on for consideration upon the magistrate judge's report and recommendation dated October 22, 2008 (Doc. 43). Plaintiff has been furnished a copy of the report and recommendation and has 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 notice of voluntary dismissal (Doc. 40) is **GRANTED** to the extent that Plaintiff Sydney Marts is terminated as a Plaintiff in this cause of action, and further, that Plaintiff Sydney Marts' case is **DISMISSED without prejudice**.
3. The clerk is directed to change the docket to reflect that Plaintiff Sydney Marts is terminated as a Plaintiff in this cause of action.

DONE AND ORDERED this 21st day of November, 2008.

s/ M. Casey Rodgers

M. CASEY RODGERS
UNITED STATES DISTRICT JUDGE