

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

DAVID E. MARTINELLI,

Plaintiff,

vs.

CASE NO.: 3:09cv256/MCR/MD

DIXIE ANGELA MORROW,

Defendant.

_____ /

ORDER

This cause comes on for consideration upon the magistrate judge's report and recommendation dated November 12, 2010. The 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), and I have made a de novo determination of those portions to which an objection has been made.

Having considered the report and recommendation and all 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. The defendant's motion to dismiss (doc. 35) is GRANTED.
3. This cause is DISMISSED WITH PREJUDICE under 28 U.S.C. § 1915(e)(2)(B)(ii) for plaintiff's failure to state a claim upon which relief may be granted.

4. The clerk is directed to close the file.

DONE AND ORDERED this 5th day of January, 2011.

sl *M. Casey Rodgers*

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