

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

RICHARD SCHALLER,

Plaintiff,

vs.

Case No.: 3:10cv473/MCR/EMT

UNITED STATES OF AMERICA, et al.,

Defendants.

_____ /

ORDER

This cause comes on for consideration upon the magistrate judge’s Report and Recommendation dated March 21, 2011. (Doc. 13). 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 claims against the United States and Defendants Holt, Spence, and Davis in their official capacities are **DISMISSED with prejudice** for seeking monetary relief against Defendants who are immune from such relief.” 28 U.S.C. § 1915A(b)(2).

3. Plaintiff’s Thirteenth Amendment claims against Defendants Holt, Spence, and Davis in their individual capacities are **DISMISSED with prejudice** as frivolous, pursuant to 28 U.S.C. § 1915A(b)(1).

4. Plaintiff's Eighth Amendment claims against Defendants Holt, Spence, and Davis in their individual capacities are **DISMISSED with prejudice** for failure to state a claim on which relief may be granted, pursuant to 28 U.S.C. § 1915A(b)(1).¹

5. The clerk is directed to close this case.

DONE AND ORDERED this 10th day of May, 2011.

M. Casey Rodgers

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

¹ Plaintiff's Eighth Amendment claims against Defendants Holt, Spence, and Davis in their individual capacities are also due to be dismissed without prejudice for failure to exhaust administrative remedies, pursuant to 28 U.S.C. § 1915A(b)(1).