

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

KENNETH NELSON,

Plaintiff,

v.

Case No. 3:15cv435/MCR/CJK

DEPARTMENT OF CORRECTIONS,

Defendant.

ORDER

This cause comes on for consideration upon the Magistrate Judge's Report and Recommendation dated October 16, 2015. (ECF No. 5). 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. This action is **DISMISSED WITHOUT PREJUDICE** pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) as malicious for Plaintiff's abuse of the judicial process.
3. The clerk shall note on the docket that the dismissal of this action constitutes plaintiff's third strike under 28 U.S.C. § 1915(g).
4. The clerk is directed to close the file.

DONE AND ORDERED this 17th day of November, 2015.

s/ M. Casey Rodgers

M. CASEY RODGERS
CHIEF UNITED STATES DISTRICT JUDGE