

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION**

GREGORY R. LANE,

Plaintiff,

vs.

CASE NO. 5:08-cv-242/RS/WCS

KEREN POTTS, et al.,

Defendants.

ORDER

Before me are the Magistrate Judge's Order and Amended Report and Recommendation (Doc. 95) and Plaintiff's objections (Doc.101). My Order dated April 30, 2010, (Doc. 99) is **withdrawn** and the clerk's judgment (Doc. 100) is **vacated**. Even though Plaintiff's objections were filed after the April 28, 2010, deadline, I have made a *de novo* determination of those portions of the report to which objection has been made pursuant to 28 U.S.C. § 636(b)(1)(C).

IT IS ORDERED:

1. The Magistrate Judge's Order and Amended Report and Recommendation (Doc. 95) is approved and incorporated in this Order.

2. Plaintiff's Fifth Amended Complaint (Doc. 93) is **dismissed** pursuant to 28 U.S.C. § 1915(e)(2) for failure to state a claim upon which relief may be granted.
3. The clerk of court is directed to note on the docket that this case was dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).
4. The clerk is directed to close the file.

ORDERED on May 4, 2010.

/S/ Richard Smoak
RICHARD SMOAK
UNITED STATES DISTRICT JUDGE