

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

KURTIS ROY JETER,

Plaintiff,

vs.

CASE NO. 5:09cv01/RS-AK

STEVE MEADOWS, et al,

Defendants.

_____ /

ORDER

Before me are the Magistrate Judge's Report and Recommendation (Doc. 34) and Plaintiff's Objections (Doc. 35). I have considered Plaintiff's objections *de novo*. Plaintiff objects to dismissal of his complaint pursuant to 28 U.S.C. §1915 because he has paid the filing fee and is not proceeding in forma pauperis. Docket entry #5 reflects that the civil filing fee of \$350.00 was received from Plaintiff.

Nonetheless, 28 U.S.C. §1915(e)(2)(B)(ii) provides:

“(2) Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that—...(B) the action or appeal—...

(ii) Fails to state a claim on which relief may be granted; or...”

IT IS ORDERED:

1. The Magistrate Judge's Report and Recommendation is adopted and incorporated by reference in this Order.
2. The Plaintiff's Third Amended Complaint (Doc. 30) 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 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 September 18, 2009.

/S/ Richard Smoak

RICHARD SMOAK

UNITED STATES DISTRICT JUDGE