

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

SIDNEY MARTS,

Plaintiff,

v.

CASE NO. 5:11cv285-MP/EMT

ALBERT YU, et al.,

Defendants.

ORDER

This cause comes on for consideration upon the magistrate judge's Report and Recommendation dated August 30, 2011. (Doc. 4). 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. Plaintiff's Complaint (doc. 1) is **DISMISSED** without prejudice as malicious, pursuant to 28 U.S.C. § 1915(e)(2)(B)(I). The dismissal of this case shall count as a strike pursuant to 28 U.S.C. § 1915(g).

DONE and ORDERED this 5th day of December, 2011.

s/ *M. Casey Rodgers*

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