

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

PHILIP M. MOSIER,

Plaintiff,

v.

CASE NO. 5:13cv55-RLH/GRJ

TIM ELLINOR et al.,

Defendants.

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ORDER OF DISMISSAL

This case is before the court on the magistrate judge's report and recommendation, ECF No. 6 and the objections, ECF No. 10. I have reviewed *de novo* the issues raised by the objections.

The plaintiff is an inmate. Correctional officers found a cellular telephone in his cell. After a disciplinary hearing, the plaintiff was placed in administrative confinement for 60 days. He lost no gain time. Delivery of magazines to the plaintiff was delayed until his release from administrative confinement.

The plaintiff asserts the hearing, placement in administrative confinement, and delayed mail delivery violated his constitutional rights. The report and

recommendation correctly concludes that placing the plaintiff in administrative confinement did not implicate a liberty interest and that the Due Process Clause did not apply. And even had the Due Process Clause applied, the plaintiff would not be entitled to relief. He received a hearing that provided due process. The presence of a telephone in an inmate's cell is "some evidence" that the inmate improperly possessed it. Due process did not obligate prison officials to conduct a more complete forensic examination before placing the plaintiff in administrative confinement. A brief delay in delivering mail of this nature to an inmate in administrative confinement is not a constitutional violation.

For these reasons,

IT IS ORDERED:

The report and recommendation is ACCEPTED and adopted as the court's opinion. The clerk must enter judgment stating, "The complaint is dismissed under 28 U.S.C. § 1915(e)(2)(B)." The clerk must close the file.

SO ORDERED on April 23, 2013.

s/Robert L. Hinkle
United States District Judge