

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

TRACY LASHOWN COLLIER,

Plaintiff,

v.

CASE NO. 5:14-cv-00226-RS-EMT

FRANK McKEITHEN, et al.,

Defendants.

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ORDER

Before me is the Magistrate Judge's Order, Report and Recommendation (Doc. 5).

I have reviewed the report and recommendation *de novo*.

I have also reviewed Plaintiff's Objection to proposed Recommendation (Doc. 6). Plaintiff contends that his failure to list several relevant previous actions on his affidavit was a careless oversight. However, careless oversight is not a valid excuse for failure to properly file the case, and I agree with the Magistrate Judge that dismissal without prejudice is the appropriate sanction. Therefore,

IT IS ORDERED:

1. The Magistrate Judge's Report and Recommendation is approved and incorporated in this Order.
2. This case is **DISMISSED WITHOUT PREJUDICE** pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) as malicious.

3. The Clerk is directed to close this case and terminate all pending motions.

ORDERED on November 3, 2014.

/S/ Richard Smoak
RICHARD SMOAK
UNITED STATES DISTRICT JUDGE