

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

BILLY JOE TOLIVER, JR.,

Plaintiff,

v.

CASE NO. 5:14-cv-0353-RS-GRJ

JAMES LOGABO, et al.,

Defendants.

ORDER

Before me is the Magistrate Judge's Report and Recommendation (Doc. 5). I have reviewed the report and recommendation *de novo*. I have also reviewed Plaintiff's Objections (Doc. 7). The Objections do address the Magistrate Judge's well-reasoned conclusions that (1) there was no constitutional violation because adequate state remedies exist for post-deprivation relief; and (2) the facts alleged to not amount to cruel and unusual punishment.

IT IS ORDERED:

1. The Magistrate Judge's Report and Recommendation is approved and incorporated in this Order.
2. This case is **DISMISSED** pursuant to 28 U.S.C. § 1915(e)(2)(B) for failure to state a claim. The dismissal of this case will count as a strike for purposes of 28 U.S.C. § 1915(g).
3. The Clerk is directed to close this case.

ORDERED on January 29, 2015.

/S/ Richard Smoak

RICHARD SMOAK

UNITED STATES DISTRICT JUDGE