

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

<p>TIMOTHY MARVIN FRICKS,</p>)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 5:10-CV-458(MTT)
)	
WARDEN STEVE UPTON, et al.,)	
)	
)	
Defendants.)	
)	

ORDER

This matter is before the Court on Magistrate Judge Charles H. Weigle’s Recommendation on the Defendants’ Motion to Dismiss. (Doc. 29). The Magistrate Judge recommends granting the Defendants Motion to Dismiss because (1) the Plaintiff has failed to exhaust his available administrative remedies with regard to his First Amendment claims against Defendant Upton and Defendant Henson; and (2) the Plaintiff has failed to state a claim against Defendant Upton regarding the alleged deprivation of due process in connection with the Plaintiff’s confinement in administrative segregation and subsequent assignment to GDCP’s Special Management Unit. The Plaintiff has not filed an objection. The Court accepts and adopts the findings, conclusions and recommendations of the Magistrate Judge, and the Motion to Dismiss is **GRANTED**, subject to the Court’s ruling below on the Plaintiff’s Motion for additional discovery.

The Magistrate Judge granted the Plaintiff’s Motion to Complete Discovery “to the extent that [the] Plaintiff shall have an additional 60 days from the date of this order

to seek to ascertain the identities of the Classification Committee and amend his Complaint.” (Doc. 30). Therefore, the Plaintiff can perform limited discovery on Defendant Warden Steve Upton in order to determine the names of these members. The Order dismissing the Defendants shall be effective upon the expiration of the 60 day discovery period. Should the Plaintiff fail to ascertain the identities of the Classification Committee and amend his Complaint within the 60 day time period, the Defendants, and the entire case, will be dismissed.

SO ORDERED, this the 19th day of March, 2012.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT