

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

GARRETT EUGENE RAY

PLAINTIFF

VERSUS

CIVIL ACTION NO. 1:10-cv-572-HSO-JMR

ADAM GIBBONS & ALLEN WEATHERFORD

DEFENDANTS

**ORDER ADOPTING REPORT AND RECOMMENDATION
TO GRANT DEFENDANT ADAM GIBBONS' MOTION TO DISMISS**

This cause comes before the Court on the Report and Recommendation [49-1] of Chief United States Magistrate Judge John M. Roper entered in this cause on November 23, 2011. Magistrate Roper reviewed the pleadings on file and determined that based on the record, Defendant Adam Gibbons' Motion to Dismiss [20-1] should be granted. To date, no objection to the Report and Recommendation has been filed by Plaintiff.¹ The Court has thoroughly reviewed the findings in the Report and Recommendation, the record, and the positions advanced in the Motion, Response², and Rebuttal, and concludes that the Magistrate Judge properly recommended that Defendant's Motion be granted pursuant to FED. R. CIV. P. 12.

Where no party has objected to the Magistrate Judge's Report and Recommendation, the Court need not conduct a *de novo* review of it. *See* 28 U.S.C. § 636(b)(1) ("a judge of the court shall make a *de novo* determination of those portions

¹ The docket reflects that Plaintiff signed for the Report and Recommendation on November 25, 2011 [52-1].

² Plaintiff filed a Response in Opposition to Defendant's Motion [24-1] on May 5, 2011.

of the report or specified proposed findings and recommendations to which objection is made.”). In such cases, the Court need only review the Report and Recommendation and determine whether it is either clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

Having conducted the required review, the Court finds that the Magistrate Judge’s Report and Recommendation thoroughly considered all issues, and is neither clearly erroneous, nor contrary to law. The Court, being fully advised in the premises, finds that the Magistrate Judge properly recommended that Defendant’s Motion to Dismiss should be granted. Said Report and Recommendation should be adopted as the opinion of this Court.

IT IS, THEREFORE, ORDERED AND ADJUDGED that, the Report and Recommendation [49-1] of Chief Magistrate Judge John M. Roper entered on November 23, 2011, is adopted as the finding of this Court.

IT IS, FURTHER, ORDERED AND ADJUDGED that, Defendant Adam Gibbons’ Motion to Dismiss [20-1] filed April 19, 2011, is **GRANTED**, and Defendant Adam Gibbons is dismissed with prejudice as a Defendant from the above captioned cause.

SO ORDERED AND ADJUDGED, this the 16th day of March, 2012.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE