

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

JAMES LEE MACK, JR.

PLAINTIFF

v.

CIVIL ACTION NO. 4:13cv6-DPJ-FKB

MISSISSIPPI DEPARTMENT OF
CORRECTIONS, et al.

DEFENDANTS

ORDER

This § 1983 conditions-of-confinement case is before the Court on the Report and Recommendation [44] of the United States Magistrate Judge, after referral of hearing by this Court. Also before the Court is Petitioner James Lee Mack, Jr.'s Motion for Reconsideration [48]. In his motion for reconsideration, Mack urges the Court to reconsider its previous ruling denying appointment of counsel [17] "due to the present conditions of my confinement." The Court has reviewed the record, including Magistrate Judge Ball's order denying appointment of counsel, and concludes that reconsideration is not warranted. *See Swans v. Caskey*, No. 5:10cv-DCB-MTP, 2010 WL 3120029, at *1 (S.D. Miss. Aug. 4, 2010) ("[G]ranted a motion for reconsideration 'is an extraordinary remedy and should be used sparingly.'" (citing *In re Pequeno*, 240 F. App'x 634, 646 (5th Cir. 2007)) (additional citation omitted)).

In his Report and Recommendation, Magistrate Judge Ball recommended that Defendants' Motions for Summary Judgment [33, 35, 37, 41] be granted and that Mack's claims be dismissed without prejudice for failure to exhaust administrative remedies. Mack did not file an Objection to the Report and Recommendation, and the time to do so has now passed. The Court, having fully reviewed the unopposed Report and Recommendation of the United States Magistrate Judge entered in this cause, and being duly advised in the premises, finds that said

Report and Recommendation should be adopted as the opinion of this Court.

IT IS, THEREFORE, ORDERED that the Report and Recommendation of United States Magistrate Judge F. Keith Ball be, and the same is hereby, adopted as the finding of this Court, and the same entire action should be dismissed without prejudice. Further, Mack's motion to reconsider is denied.

SO ORDERED AND ADJUDGED this the 30th day of September, 2013.

s/ Daniel P. Jordan III

UNITED STATES DISTRICT JUDGE