

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

RICHARD BARKER FREENEY, #270785,)
)
Plaintiff,)
)
v.) CIVIL ACTION NO. 2:10-CV-373-TMH
)
D. T. MARSHALL, et al.,)
)
Defendants.)

RECOMMENDATION OF THE MAGISTRATE JUDGE

Richard Barker Freeney ["Freeney"], an indigent state inmate, initiated this 42 U.S.C. § 1983 cause of action in which he sought to challenge conditions of his previous confinement in the Montgomery County Detention Facility.

Upon review of the initial complaint, the court determined Freeney failed to present facts sufficient to support relief in this case and therefore deemed it necessary that Freeney file an amended complaint. Accordingly, the court issued an order containing detailed instructions with respect to filing of the requisite amended complaint. *Order of May 12, 2010 - Doc. No. 5.* The court also advised Freeney this case would proceed only on the defendants named and claims raised in the amended complaint and cautioned him his failure to comply with the directives of this order would result in a Recommendation that this case be dismissed. *Id.* at 1-2. The time allowed Freeney to file the requisite amended complaint expired on June 4, 2010. As of the present date, Freeney has failed to file an amended complaint or any other response to the order entered on May 12, 2010. Consequently, the

court concludes this case is due to be dismissed.

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be dismissed without prejudice for failure of the plaintiff to file an amended complaint in accordance with the directives of the orders entered in this case. It is further

ORDERED that on or July 24, 2012 the parties may file objections to the Recommendation. Any objection must specifically identify the findings in the Recommendation objected to. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable. Failure to file written objections to the proposed findings in the Recommendation shall bar the party from a de novo determination by the District Court of issues covered in the report and shall bar the party from attacking on appeal factual findings in the report accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982). See *Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11th Cir. 1982). See also *Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981, en banc), adopting as binding precedent all decisions of the former Fifth Circuit issued prior to September 30, 1981.

Done this 9th day of July, 2012.

/s/Terry F. Moorer
TERRY F. MOORER
UNITED STATES MAGISTRATE JUDGE