

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

JESSIE MONEYHAM, #198 467,)
)
 Plaintiff,)
)
 v.) CIVIL ACTION NO. 2:15-CV-858-WKW
) [WO]
 CORRECTIONAL OFFICER R. GASDON,)
 et al.,)
)
 Defendants.)

RECOMMENDATION OF THE MAGISTRATE JUDGE

This *pro se* 42 U.S.C. § 1983 action was filed by Plaintiff on November 16, 2015. Plaintiff is an inmate incarcerated at the Donaldson Correctional Facility in Bessemer, Alabama.

On November 19, 2015, the court entered an order directing Plaintiff either to file the \$400.00 filing and administrative fees or an affidavit in support of a motion for leave to proceed *in forma pauperis*. See *Doc. No. 2*. On December 3, 2015, the envelope containing Plaintiff's copy of the November 19 order was returned to the court with this notation: "Returned to Sender; Refused by Inmate."

A review of the instant complaint demonstrates that it contains strikingly similar handwriting and practically identical claims to many cases filed by inmate James M. Broadhead in both this court and the United States District Court for the Northern District of Alabama. Broadhead, like Plaintiff, is confined at the Donaldson Correctional Facility. Broadhead's most recent case, *Broadhead v. Gasdon, et al.*, 2:15-CV-854-MHT-GMB, was filed with this court on November 16, 2015, at precisely the same time that Plaintiff putatively filed the present cause of action.

As it appears from his refusal of the November 19 order that Plaintiff does not wish to pursue the instant complaint – and very likely did not initiate this action – the undersigned concludes that dismissal is appropriate.

Accordingly, it is the RECOMMENDATION of the Magistrate Judge this case be DISMISSED without prejudice.

The Clerk of the Court is DIRECTED to file the Recommendation of the Magistrate Judge and to serve a copy on Plaintiff. Plaintiff may file any objections to this Recommendation on or before **December 22, 2015**. Any objections filed must specifically identify the factual findings and legal conclusions in the Magistrate Judge’s Recommendation to which Plaintiff objects. Frivolous, conclusive or general objections will not be considered by the District Court.

Failure to file written objections to the proposed findings and recommendations in the Magistrate Judge’s report shall bar a party from a *de novo* determination by the District Court of factual findings and legal issues covered in the report and shall “waive the right to challenge on appeal the district court’s order based on unobjected-to factual and legal conclusions” except on grounds of plain error if necessary in the interests of justice. 11th Cir. R. 3-1; *see Resolution Trust Co. v. Hallmark Builders, Inc.*, 996 F.2d 1144, 1149 (11th Cir. 1993); *Henley v. Johnson*, 885 F.2d 790, 794 (11th Cir. 1989).

DONE, this 8th day of December, 2015.

/s/ Susan Russ Walker
SUSAN RUSS WALKER
CHIEF UNITED STATES MAGISTRATE JUDGE