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

MARCUS MONTEZ SPANGLER, AIS #115765,	)	
Plaintiff,	)	
v.	)	CASE NO. 2:17-CV-001-WKW [WO]
OFFICER K. JOHNSON, *et al.*,	)	
Defendants.	)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

This 42 U.S.C. § 1983 action is pending before the court on a complaint filed by Marcus Montez Spangler, an indigent state inmate, in which he challenges alleged actions taken against him at the Bullock Correctional Facility. Doc. 1 at 2–3. On September 22, 2017, the court received a document in which the plaintiff "request[s] that the Court withdraw every party from this Lawsuit/Civil Suit." Doc. 25 at 1. The court construes this document as a motion to dismiss the instant civil action. Upon consideration of this motion to dismiss (Doc. 25), the court concludes that this motion is due to be GRANTED and that this case should be dismissed without prejudice.

Dismissal without prejudice at the insistence of the plaintiff pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure is committed to the sound discretion of this court and, absent some plain legal prejudice to the defendants, denial of the dismissal constitutes an abuse of this court's discretion. *McCants v. Ford Motor Co., Inc.*, 781 F.2d

855 (11th Cir. 1986). Simple litigation costs, inconvenience to the defendants, or the prospect of a second or subsequent lawsuit do not constitute clear legal prejudice. *Id.*; *see also Durham v. Fla. E. Coast Ry. Co.*, 385 F.2d 366 (5th Cir. 1967). After review of the pleadings filed by the parties and the docket in this matter, the court concludes that the record reflects no basis for a finding of legal prejudice to the defendants. As a result, this case is due to be dismissed without prejudice on the motion of the plaintiff.

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that:

1. The plaintiff's motion to dismiss (Doc. 25) be GRANTED.
2. This case be DISMISSED without prejudice.
3. No costs be taxed herein.

The parties may file objections to this Recommendation on or before **October 11, 2017**. A party must specifically identify the factual findings and legal conclusions in the Recommendation to which the objection is made; frivolous, conclusive, or general objections will not be considered.

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 upon 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 27th day of September, 2017.

GRAY M. BORDEN
UNITED STATES MAGISTRATE JUDGE