

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

ANTONIO B. WYMES,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO. 1:07-CV-289-WHA
	)	[WO]
	)	
STATE OF ALABAMA, et al.,	)	
	)	
Defendants.	)	

**RECOMMENDATION OF THE MAGISTRATE JUDGE**

In this 42 U.S.C. § 1983 action, Antonio B. Wymes [“Wymes”], a county inmate, challenges the constitutionality of actions undertaken with respect to a criminal charge(s) pending against him before the state courts of Houston County, Alabama. Wymes seeks dismissal of the criminal charge(s) and his immediate release from confinement. *Plaintiff’s Complaint* at 5.

Upon review of the complaint, the court concludes that this case should be dismissed prior to service of process under 28 U.S.C. § 1915(e)(2)(B)(i) and (ii).<sup>1</sup>

**DISCUSSION**

Wymes is currently confined in the Houston County Jail on a criminal charge(s)

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<sup>1</sup>A prisoner who is allowed to proceed *in forma pauperis* in this court will have his complaint screened in accordance with the provisions of 28 U.S.C. § 1915(e)(2)(B). This screening procedure requires the court to dismiss a prisoner’s civil action prior to service of process if it determines that the complaint is frivolous, malicious, fails to state a claim upon which relief may be granted, or seeks monetary damages from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B)(i)-(iii).

brought against him in 2004. His bond is set at \$250,000 on “[a] highly erroneous allegation” that he “fled custody” in November of 2004 after being released on bond. *Plaintiff’s Complaint* at 3. Wymes complains that the State has no evidence to support its allegation of flight and argues that he is therefore entitled to release from confinement and a bond reduction hearing. *Id.*

### **A. The Pending Criminal Charge(s)**

Wymes seeks dismissal of the charge(s) pending against him before state courts of Houston County, Alabama. Under the decision of the United States Supreme Court in *Younger v. Harris*, 401 U.S. 37, 43-44 (1971), a federal court must refrain from interfering with pending state criminal proceedings “when the moving party has an adequate remedy at law and will not suffer irreparable injury if denied equitable relief.” The *Younger* abstention doctrine is premised upon a fundamental “public policy against federal interference with state criminal prosecutions.” *Id.* at 43. In this case, Wymes has an adequate remedy at law because he may pursue any of his federal constitutional issues through the state court system. *See generally Doby v. Strength*, 758 F.2d 1405 (11<sup>th</sup> Cir. 1985). Specifically, he can request a bond reduction hearing, appeal any adverse decision issued at such hearing and challenge the sufficiency of the evidence in the on-going state criminal proceedings. Moreover, the plaintiff has not alleged the existence of any special circumstances which create a threat of irreparable harm. The mere fact that Wymes must endure state criminal proceedings fails to demonstrate irreparable harm. *Younger*, 401 U.S.

at 45. This court must therefore abstain from considering the merits of the plaintiff's claims which challenge the constitutionality of the charge(s) pending against him and his resulting confinement as such claims are not cognizable in a 42 U.S.C. § 1983 action at this time. *Id.* at 43-44. Consequently, summary dismissal of these claims is appropriate under 28 U.S.C. § 1915(e)(2)(B)(ii).

### **B. The Bond Amount**

To the extent Wymes seeks relief from the bond amount imposed upon him by a Houston County court, this court lacks jurisdiction to render such judgment in an action filed pursuant to 42 U.S.C. § 1983. “The *Rooker-Feldman* doctrine prevents ... lower federal courts from exercising jurisdiction over cases brought by ‘state-court losers’ challenging ‘state-court judgments rendered before the district court proceedings commenced.’ *Exxon Mobil Corp. v. Saudi Basic Industries Corp.*, 544 U.S. 280, 284, 125 S.Ct. 1517, 161 L.Ed.2d 454 (2005).” *Lance v. Dennis*, 546 U.S. 459, \_\_\_, 126 S.Ct. 1198, 1199 (2006). Although “*Rooker-Feldman* is a narrow doctrine,” it remains applicable to bar Wymes from proceeding before this court as this case is “brought by [a] state-court loser[] complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments. 544 U.S. at 284, 125 S.Ct. [at] 1517.” *Lance*, 546 U.S. at \_\_\_, 125 S.Ct. At 1201; *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462, 486 (1983) (federal district courts “do not have jurisdiction ... over challenges to state court decisions in

particular cases arising out of judicial proceedings even if those challenges allege that the state court's action was unconstitutional.”). Moreover, a § 1983 action is inappropriate either to compel or to appeal a particular course of action by a state court. *Datz v. Kilgore*, 51 F.3d 252, 254 (11<sup>th</sup> Cir. 1995) (section 1983 suit arising from alleged erroneous decisions of a state court is merely a prohibited appeal of the state court judgment); *see also Rolleston v. Eldridge*, 848 F.2d 163 (11<sup>th</sup> Cir. 1988).

In light of the foregoing, the court concludes that dismissal of the plaintiff's request for declaratory relief with respect to actions undertaken by a Houston County court in setting bond on his criminal charge(s) is appropriate under 28 U.S.C. § 1915(e)(2)(B)(i). *See Clark v. State of Georgia Pardons and Paroles Board*, 915 F.2d 636 (11<sup>th</sup> Cir. 1990); *see also Neitzke v. Williams*, 490 U.S. 319 (1989).

### CONCLUSION

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

1. The challenges to the criminal charge(s) pending against Wymes before the state courts of Houston County, Alabama be dismissed without prejudice in accordance with the directives of 28 U.S.C. § 1915(e)(2)(B)(ii).
2. The plaintiff's claim attacking the bond amount set by a state court be dismissed with prejudice pursuant to the provisions of 28 U.S.C. § 1915(e)(2)(B)(i).
3. This case be dismissed prior to service of process pursuant to the provisions of 28 U.S.C. § 1915(e)(2)(B)(i) and (ii).

It is further

ORDERED that on or before April 23, 2007 the parties may file objections to the Recommendation. Any objections filed must specifically identify the findings in the Magistrate Judge's Recommendation to which the party is objecting. 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 and advisements in the Magistrate Judge's Recommendation shall bar the party from a de novo determination by the District Court of issues covered in the Recommendation and shall bar the party from attacking on appeal factual findings in the Recommendation 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 of the decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

Done this 10<sup>th</sup> day of April, 2007.

/s/ Wallace Capel, Jr.  
WALLACE CAPEL, JR.  
UNITED STATES MAGISTRATE JUDGE