

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

LERNARD LAMONT DUNCAN,	)	
	)	
Plaintiff,	)	
	)	
v.	)	1:08-CV-867-TMH
	)	[WO]
	)	
HOUSTON COUNTY SHERIFF’S DEPT.,	)	
<i>et al.</i> ,	)	
	)	
Defendants.	)	

**OPINION AND ORDER**

On October 30, 2008, the Magistrate Judge filed a Report and Recommendation (Doc. 5) in this case to which no timely objections have been filed. Upon an independent review of the file in this case and upon consideration of the Recommendation of the Magistrate Judge, it is ORDERED that:

1. The Recommendation (Doc. 5) of the Magistrate Judge is ADOPTED;
2. The Plaintiff’s claims against the Houston County Sheriff’s Department be dismissed with prejudice prior to service of process in accordance with the directives of 28 U.S.C. § 1915(e)(2)(B)(i);
3. The Houston County Sheriff’s Department be DISMISSED as a defendant in this cause of action;
4. This case, with respect to the plaintiff’s claims against defendants Hagler, Soden and Smoak, be referred back to the Magistrate Judge for appropriate

proceedings.

Done this 3rd day of December, 2008.

/s/ Truman M. Hobbs

SENIOR UNITED STATES DISTRICT JUDGE