

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

BRYSON GALLOWAY,

Plaintiff,

v.

JOHN K. BABINSKI, *et al.*,

Defendants.

Case No. 1:11-cv-663-MEF
(WO)

ORDER

After the Court entered a Memorandum Opinion and Order dismissing some of Bryson Galloway's claims (ECF No. 32), Galloway filed a Motion for Reconsideration (ECF No. 33). In his motion, Galloway argues that the Court improperly dismissed his state law claims against one of the defendants, John Duhaime, because he only conceded that the claims should have been dismissed against one of the other defendants, the City of Abbeville. From there he asks the Court to reinstate the state law claims against Duhaime.

Galloway is correct that he did not explicitly concede the state law claims against Duhaime like he did with the City. But he failed to contest the sovereign immunity arguments raised by Duhaime in his motion to dismiss. Thus he abandoned those claims. And either way, Alabama's Constitution grants Duhaime absolute immunity from suit

under state law. Ala. Const. of 1901, art. 1, § 14; *Ex parte Davis*, 930 So. 2d 497, 500 (Ala. 2005) (dismissing state law claims against sheriff's deputy based on absolute immunity granted in Alabama Constitution). So even if the state law claims against Duhaime were dismissed for the wrong reason (which is arguable since he implicitly conceded the point by not addressing Duhaime's arguments), they were still properly dismissed. Accordingly, it is hereby ORDERED that Galloway's Motion for Reconsideration (ECF No. 33) is DENIED.

Done this the 23rd day of July, 2012.

/s/ Mark E. Fuller
UNITED STATES DISTRICT JUDGE