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

DARRELL SMEDLEY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CASE NO. 1:12-CV-116-WKW
	)	
CITY OF OZARK,	)	
	)	
Defendant.	)	

ORDER

On March 9, 2012, the Magistrate Judge filed a Report and Recommendation (Doc. # 5) regarding Plaintiff's Motion for Summary Judgment (Doc. # 4). Plaintiff filed timely objections. (Docs. # 6 & 7.) The court reviews *de novo* the portion of the Recommendation to which the objections apply. 28 U.S.C. § 636(b)(1). For the reasons that follow, the objections are due to be overruled and the Recommendation adopted.

It appears that Plaintiff objects to the Magistrate Judge's findings that Plaintiff failed to allege a procedural due process claim, (Doc. # 6, at 5), and that Plaintiff failed to exhaust his state remedies so as to assert a claim pursuant to 28 U.S.C. § 2254. (Doc. # 6, at 7.) In his objections, Plaintiff still fails to establish that the state of Alabama has not provided an adequate post-deprivation remedy, and thus, he does not properly allege a procedural due process claim. Furthermore, Plaintiff's

objections do not show that Plaintiff has exhausted his state remedies. Plaintiff does provide evidence that he has filed state court actions against Defendant; however, this evidence does not provide the nature or the disposition of those cases. (*See, e.g.*, Attach. 1 to Doc. # 6; Attach. 1 to Doc. # 7.)

Accordingly, it is ORDERED that:

1. Plaintiff's objections (Docs. # 6 & 7) are OVERRULED;

2. the Recommendation of the Magistrate Judge (Doc. # 5) is ADOPTED;

3. Plaintiff's Motion for Summary Judgment (Doc. # 4) is DENIED;

4. Plaintiff's § 1983 procedural due process claim is DISMISSED with prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B), for failure to state an actionable procedural due process claim; and

5. Plaintiff's claim pursuant to 28 U.S.C. § 2254 is DISMISSED without prejudice for failure to exhaust state remedies.

A separate final judgment will be entered.

DONE this 15th day of May, 2012.

/s/ W. Keith Watkins
CHIEF UNITED STATES DISTRICT JUDGE