

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

GORDON COLE, SR., # 297280,)
)
Plaintiff,)
)
v.)
)
JAMES M. COUNTS, *et al.*,)
)
Defendants.)

CASE NO. 1:16-CV-345-WKW
[WO]

ORDER

On June 1, 2016, the Magistrate Judge filed a Recommendation (Doc. # 5) to which Plaintiff timely filed objections (Doc. # 6). The court has conducted an independent and *de novo* review of those portions of the Recommendation to which objection is made, *see* 28 U.S.C. § 636(b), and finds that Plaintiff’s objections are without merit. Accordingly, it is ORDERED as follows:

- (1) Plaintiff’s objections (Doc. # 6) are OVERRULED;
- (2) The Recommendation (Doc. # 29) is ADOPTED;
- (3) Plaintiff’s claims challenging the revocation of probation and the sentence imposed by the trial court upon such revocation are DISMISSED without prejudice prior to service of process in accordance with the directives of 28 U.S.C. § 1915(e)(2)(B)(ii);

(4) Judge Sharon R. Clark and Probation Officer Jared McPhaul are DISMISSED as defendants in this action;

(5) Plaintiff's claim seeking prosecution of Defendant Counts for tampering with his mail is DISMISSED with prejudice pursuant to the provisions of 28 U.S.C. § 1915(e)(2)(B)(i); and

(6) Plaintiff's claim that Defendant Counts tampered with his legal mail in violation of his constitutional right of access to the court is REFERRED back to the Magistrate Judge for further proceedings.

DONE this 20th day of June, 2016.

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