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

ANDREW D. FLAGG-EL,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO. 1:19-CV-909-WHA
	)	
HOUSTON COUNTY COMMISSION FOR COURTS AND JAIL STANDARDS, *et al.*,	)	
	)	
Defendants.	)	

OPINION AND ORDER

On March 2, 2020, the Magistrate Judge filed a Recommendation that Plaintiff's amended complaint be dismissed prior to service of process under 28 U.S.C. § 1915(e)(2)(B)(i-iii). Doc. 16. On March 16, 2020, Plaintiff filed an Objection the Recommendation of the Magistrate Judge. Doc. 21. After careful review and consideration of the Objection, and upon independent and *de novo* review of the record, the court concludes that Plaintiff's Objection should be overruled and the Magistrate Judge's recommendation adopted.

Additionally, while the Recommendation did not address Plaintiff's amended complaint against the Houston County District Attorney's Office, the court can, and now does, conclude the claims against this defendant are subject to dismissal. Because the Houston County District Attorney's Office receives its funding from the State, it is deemed to be an agency of the State of Alabama. *Hooks v. Hitt*, 539 So.2d 157, 159 (Ala. 1988) (holding that the district attorneys and their employees are "state employees whose salaries are funded by the state") (*citing* Ala. Code § 12–7–182 (1975)); *McMillian v. Monroe County, Ala.*, 520 U.S. 781, 790 (1997) (observing that an Alabama district attorney is a state official). Because an Alabama district attorney's office is a

state agency, a suit filed against a state district attorney's office is akin to a suit brought against the State. The Eleventh Amendment, however, bars suit directly against a state or its agencies, regardless of relief sought. *Papasan v. Allain*, 478 U.S. 265 (1986); *Pennhurst State School & Hosp. v. Halderman*, 465 U.S. 89 (1984). Because Plaintiff's amended complaint against the Houston County District Attorney's Office is based on an indisputably meritless legal theory, this defendant is subject to dismissal under 28 U.S.C. § 1915(e)(2)(B)(i).

An appropriate judgment will be entered.

Done, this 18th day of March 2020.

/s/ W. Harold Albritton
W. HAROLD ALBRITTON
SENIOR UNITED STATES DISTRICT JUDGE