

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

MARK DAWSON, #163066,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 2:08-CV-946-MHT
)	[WO]
)	
ALEX CITY WORK RELEASE, et al.,)	
)	
Defendants.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

In this 42 U.S.C. § 1983 action, Mark Dawson, a state inmate, challenges the constitutionality of his removal from work release based on his medical condition. The plaintiff names Alex City Work Release, a correctional facility, and the Alabama Department of Corrections as defendants in this cause of action.

Upon review of the complaint, the court concludes that the plaintiff's claims against Alex City Work Release and the Alabama Department of Corrections are due to be dismissed prior to service of process in accordance with the provisions of 28 U.S.C. § 1915(e)(2)(B)(i).¹

I. DISCUSSION

A. Alex City Work Release

A work release facility is not a legal entity subject to suit or liability under 42 U.S.C. § 1983. *See Dean v. Barber*, 951 F.2d 1210, 1214 (11th Cir. 1992). In light of the foregoing, the court concludes that the plaintiff's claims against Alex City Work Release are due to be summarily

¹A prisoner who is allowed to proceed *in forma pauperis* in this court will have his complaint screened in accordance with the provisions of 28 U.S.C. § 1915(e)(2)(B). This screening procedure requires the court to dismiss a prisoner's civil action prior to service of process if it determines that the complaint is frivolous, malicious, fails to state a claim upon which relief may be granted, or seeks monetary damages from a defendant who is immune from such relief. 28 U.S.C. § 1915(e)(2)(B)(i)-(iii).

dismissed. *Id.*

B. The Alabama Department of Corrections

The Alabama Department of Corrections as a state agency is entitled to absolute immunity from suit. *Papasan v. Allain*, 478 U.S. 265, 276 (1986) (Unless the State or its agency consents to suit, the plaintiff cannot proceed against such defendant as the action is proscribed by the Eleventh Amendment and “[t]his bar exists whether the relief sought is legal or equitable.”). Thus, the plaintiff’s claims against the Alabama Department of Corrections are frivolous as they are “based on an indisputably meritless legal theory.” *Neitzke v. Williams*, 490 U.S. 319, 327 (1989).² The claims presented by the plaintiff against the aforementioned defendant are therefore subject to summary dismissal pursuant to the directives of 28 U.S.C. § 1915(e)(2)(B)(i).

II. CONCLUSION

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that:

1. The plaintiff’s 42 U.S.C. § 1983 claims against Alex City Work Release and the Alabama Department of Corrections be dismissed with prejudice in accordance with the directives of 28 U.S.C. § 1915(e)(2)(B)(i).
2. Alex City Work Release and the Alabama Department of Corrections be dismissed as defendants in this cause of action.
3. This case, with respect to the claim lodged against James Carlton, be referred back to the undersigned for appropriate proceedings.

It is further

²Although *Neitzke* interpreted 28 U.S.C. § 1915(d), the predecessor to 28 U.S.C. § 1915(e)(2), the analysis contained therein remains applicable to the present statute.

