

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

MICHAEL SMITH,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACT. NO. 2:09-CV-455-WHA
	)	[WO]
	)	
LOWNDES COUNTY JAIL,	)	
	)	
Defendant.	)	

**RECOMMENDATION OF THE MAGISTRATE JUDGE**

In this 42 U.S.C. § 1983 action, Michael Smith [“Smith”], an indigent county inmate, challenges his access to medical personnel and the conditions of confinement to which he is subjected at the Lowndes County Jail. Upon review of the complaint, the court concludes that dismissal of this case prior to service of process is appropriate pursuant to the provisions of 28 U.S.C. § 1915(e)(2)(B)(i).<sup>1</sup>

**DISCUSSION**

Smith names the Lowndes County Jail as the sole defendant in this cause of action. A county jail is not a legal entity subject to suit or liability under section 1983.

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<sup>1</sup>The court granted Smith leave to proceed *in forma pauperis* in this cause of action. *Court Doc. No. 3*. A prisoner who is allowed to proceed *in forma pauperis* will have his complaint screened under the provisions of 28 U.S.C. § 1915(e)(2)(B) which requires this 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).

*See Dean v. Barber*, 951 F.2d 1210, 1214 (11<sup>th</sup> Cir. 1992). In light of the foregoing, the court concludes that the present complaint against the Lowndes County Jail is due to be summarily dismissed. *Id.*

## CONCLUSION

Accordingly, it is the RECOMMENDATION of the Magistrate Judge that this case be dismissed with prejudice in accordance with the directives of 28 U.S.C. § 1915(e)(2)(B)(i).

It is further

ORDERED that **on or before June 4, 2009** the parties may file objections to this Recommendation. Any objections filed must specifically identify the findings in the Magistrate Judge's Recommendation to which the party is objecting. Frivolous, conclusive or general objections will not be considered by the District Court. The parties are advised that this Recommendation is not a final order of the court and, therefore, it is not appealable.

Failure to file written objections to the proposed findings and advisements in the Magistrate Judge's Recommendation shall bar the party from a de novo determination by the District Court of issues covered in the Recommendation and shall bar the party from attacking on appeal factual findings in the Recommendation

accepted or adopted by the District Court except upon grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982). See *Stein v. Reynolds Securities, Inc.*, 667 F.2d 33 (11th Cir. 1982). See also *Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981, *en banc*), adopting as binding precedent all of the decisions of the former Fifth Circuit handed down prior to the close of business on September 30, 1981.

Done this 22<sup>nd</sup> day of May, 2009.

/s/Charles S. Coody  
CHARLES S. COODY  
UNITED STATES MAGISTRATE JUDGE