

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

WILLIAM E. BOWHALL,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 2:10-CV-608-WKW [WO]
)	
NBC, INC., <i>et al.</i> ,)	
)	
Defendants.)	

ORDER ADOPTING RECOMMENDATION

On September 22, 2010, the Magistrate Judge filed a Report and Recommendation in this case. (Doc. # 8.) On October 6, 2010, Plaintiff William E. Bowhall¹ filed a Motion to Proceed - In Pro-Se (Doc. # 9), and subsequently a Motion of Continuation (presumably of Mr. Bowhall's thoughts) (Doc. # 10), which after review, the court construes as objections. On November 15, 2010, Mr. Bowhall filed a Motion for Extension of Time – And – (Motion to Continue) – Supplementals (Added) (Doc. # 11), which the court also construes in part as an objection. The court has conducted a *de novo* review of those portions of the Report and Recommendation to which objection is made. *See* 28 U.S.C. § 636(b)(1).

The Magistrate Judge liberally construed Mr. Bowhall's complaint as seeking relief

¹ Mr. Bowhall has filed eight other civil actions in this court. *See Bowhall v. Johnson & Johnson*, No. 2:10cv601-WKW (July 14, 2010); *Bowhall v. Capitol-EMI Records, Inc.*, No. 2:10cv603-WKW (July 14, 2010); *Bowhall v. Office of James M. Deiman, et al.*, No. 2:10cv604-WKW (July 14, 2010); *Bowhall v. Howell High Sch. Bd. of Educ.*, No. 2:10cv605-WKW (July 14, 2010); *Bowhall v. Viacom, Inc., et al.*, No. 2:10cv606-WKW (July 14, 2010); *Bowhall v. Dep't of Defense, et al.*, No. 2:10cv607-WKW (July 14, 2010); *Bowhall v. Obama*, No. 2:10cv609-WKW (July 14, 2010); *Bowhall v. NAACP Beverly Hills*, No. 2:10cv679-WKW (Aug. 10, 2010).

under both 42 U.S.C. § 1983 and *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971). (Doc. # 8, at 5.) To obtain relief under § 1983 or *Bivens*, Mr. Bowhall must show that he was deprived of a federal right by a person acting under color of state (for § 1983 claims) or federal (for *Bivens* claims) law. See *Patrick v. Floyd Medical Center*, 201 F.3d 1313, 1315 (11th Cir. 2000) (§ 1983 claims); *O'Brien v. United States*, 137 Fed. Appx. 295, 299 (11th Cir. 2005) (*Bivens* claims). The Magistrate Judge concluded that Mr. Bowhall's claims did not allege that the Defendants were acting under color of state or federal law. Mr. Bowhall objects to this conclusion, and seems to posit that everyone is a state actor. "That by argument, private parties . . . lawyers, prominent members of society, preachers, etc., are given 'state actor' status" (Doc. # 9, at 6.) The court is aware of no authority supporting Mr. Bowhall's interpretation of state action.

Furthermore, because all of Mr. Bowhall's federal claims are due to be dismissed, the court declines to exercise supplemental jurisdiction over Mr. Bowhall's state claims. See 28 U.S.C. § 1367(c)(3).

Accordingly, it is ORDERED as follows:

1. Plaintiff's Objections (Docs. # 9, 10, 11) are OVERRULED;
2. Plaintiff's Motion for Extension of Time (Doc. # 11) is DENIED;
3. The Magistrate Judge's Report and Recommendation (Doc. # 8) is ADOPTED;
4. Plaintiff's Motion to Proceed *in forma pauperis* (Doc. # 2) is GRANTED;

5. Plaintiff's federal claims against Defendants are DISMISSED without prejudice prior to service of process pursuant to 28 U.S.C. § 1915(e)(2)(B)(i)-(ii); and
6. Supplemental jurisdiction over the state claims is declined pursuant to 28 U.S.C. § 1367(c)(3), and the state law claims are dismissed without prejudice.

An appropriate judgment will be entered.

DONE this 18th day of November, 2010.

/s/ W. Keith Watkins
UNITED STATES DISTRICT JUDGE