

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

CHRISTOPHER LEWIS BARROW,	)	
	)	
Petitioner,	)	
	)	
	)	CASE NO. 2:11-CV-116-WHA
	)	[WO]
	)	
RUSSELL THOMAS, et al.,	)	
	)	
Respondents.	)	

**ORDER**

This case is before the court on an action styled as a "Petition for Writ of Mandamus" filed by Christopher Lewis Barrow["Barrow"], a county inmate. In this petition, Jones seeks an order from this court directing officials at the Pike County Jail to provide him with necessary medicines and medical treatment. The All Writs Act provides "[t]he Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law." 28 U.S.C. § 1651(a). The Act's statutory language, "in aid of their respective jurisdictions, does not empower a district court to create jurisdiction where none exists." *Gehm v. New York Life Ins. Co.*, 992 F. Supp. 209, 211 (E.D.N.Y. 1998). "To the contrary, a court may issue orders under the Act only to protect a previously and properly acquired jurisdiction." *Id.* While the law is well settled that federal district courts have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the

United States or one of its agencies to perform a specific duty, 28 U.S.C. § 1361, federal courts are without jurisdiction to issue writs compelling action by state officials in the performance of their duties where mandamus is the relief sought.<sup>1</sup> *Moye v. Clerk, DeKalb County Superior Court*, 474 F.2d 1275, 1276 (5<sup>th</sup> Cir. 1973); *Russell v. Knight*, 488 F.2d 96, 97 (5<sup>th</sup> Cir. 1973); *Davis v. Lansing*, 851 F.2d 72, 74 (2<sup>nd</sup> Cir. 1988); *Gurley v. Superior Court of Mecklenburg County*, 411 F.2d 586, 587 (4<sup>th</sup> Cir. 1969). Thus, this court has no mandamus jurisdiction over the officials responsible for the plaintiff's medical treatment while in the Pike County Jail. However, it is clear that this court does have jurisdiction to consider the plaintiff's claims for relief in an action filed pursuant to 42 U.S.C. § 1983.

In light of the foregoing, it is

ORDERED that this cause of action be and is hereby construed as a complaint filed under 42 U.S.C. § 1983.

Done this 23rd day of February, 2011.

/s/ Susan Russ Walker  
SUSAN RUSS WALKER  
CHIEF UNITED STATES MAGISTRATE JUDGE

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<sup>1</sup>Under all facets of Alabama law, a county sheriff and his jailers act as state officers “when supervising inmates and otherwise operating the county jails.” *Turquitt v. Jefferson County, Alabama*, 137 F.3d 1285, 1289 (11<sup>th</sup> Cir. 1998); *see* Ala. Const. Art. V, § 112 (designates sheriff and, by extension, his staff as members of State’s executive department); *see also Parker v. Amerson*, 519 So.2d 442 (Ala. 1987) (county sheriff is executive officer of the State).