

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

CHARLES AUSTIN,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CASE NO. 2:12-cv-161-TMH
	)	[wo]
ELEANOR BROOKS, et al.,	)	
	)	
Defendants.	)	

**OPINION and ORDER**

On February 29, 2012, the Magistrate Judge filed a Recommendation in this case to dismiss the charges against Defendants McCooey, Brooks, Gray, and White based on 28 U.S.C. § 1915(e)(2)(B)(i) and (iii), to dismiss the constitutionality of the conviction and sentence imposed by the Circuit Court for Montgomery County, Alabama, based on 28 U.S.C. § 1915(e)(2)(B)(ii) as improper before this Court, and to dismiss the case prior to the service of process based on 28 U.S.C. § 1915(e)(2)(B)(i) and (iii). (Doc. No. 4).

On March 6, 2012, Plaintiff filed a *Motion for Summary Judgment Grant 1983*, (Doc. No. 5) which the Court construes as an objection to the Report and Recommendation of the Magistrate Judge. Upon an independent review of the file in this case and upon consideration of the Recommendation of the Magistrate Judge, the Court finds that the objection is no more than a reiteration of the arguments presented in the original complaint regarding matters associated with his state court criminal proceedings. The Court finds that the Recommendation addressed the Plaintiff’s allegations against the

named defendants and explained why the complaint may not proceed. Any further challenge to the validity of this conviction is not properly before this Court. Wherefore, it is

ORDERED and ADJUDGED that the Recommendation of the Magistrate Judge be and is hereby ADOPTED, that Plaintiff's complaint against Defendants McCooey, Brooks, Gray, and White is DISMISSED with prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B)(i) and (iii), the challenge to the constitutionality of the conviction and sentence imposed by the Circuit Court for Montgomery County, Alabama, is DISMISSED without prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), and that this case be DISMISSED prior to service of process in accordance with the provisions of 28 U.S.C. § 1915(e)(2)(B)(i)-(iii).

DONE this 13<sup>th</sup> day of March, 2012.

/s/ Truman M. Hobbs

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TRUMAN M. HOBBS  
SENIOR UNITED STATES DISTRICT JUDGE