

THE DISTRICT COURT OF THE UNITED STATES  
FOR THE MIDDLE DISTRICT OF ALABAMA  
EASTERN DIVISION

DARRELL WIMBERLY,	)	
	)	
Plaintiff,	)	
	)	
v.	)	3:10-CV-99-TMH
	)	[WO]
	)	
AUBURN POLICE, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**ORDER**

On February 17, 2010, the Magistrate Judge filed a Recommendation (Doc. 4) in this case to which no timely objections have been filed. Upon an independent review of the file in this case and upon consideration of the Recommendation of the Magistrate Judge, it is ORDERED that:

1. The Recommendation (Doc. 4) of the Magistrate Judge is ADOPTED, and
2. The § 1983 claims presented against the named defendants be DISMISSED with prejudice in accordance with the directives of 28 U.S.C. § 1915(e)(2)(B)(i);
3. Plaintiff’s challenge to the constitutionality of the conviction and sentence imposed upon him by the Municipal Court of Auburn be DISMISSED without prejudice pursuant to the provisions of 28 U.S.C. § 1915(e)(2)(B)(ii), as such claims are not properly before the court at this time; and
4. This case be DISMISSED prior to service of process under 28 U.S.C. §

1915(e)(2)(B)(i) and (ii).

An appropriate judgment will be entered.

Done this 12th day of March, 2010.

/s/ Truman M. Hobbs

SENIOR UNITED STATES DISTRICT JUDGE