

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

EARNEST J. FILES, JR.)	
 AIS 107834,)	
)	
Plaintiff,)	
)	
v.)	Case No. 3:24-cv-0009-RAH
)	
JEREMY DUERR, et al.,)	
)	
Defendants.)	

ORDER

Pending before the Court is the Complaint, which includes a Motion for Preliminary Injunction, filed by Plaintiff Earnest J. Files, Jr. On January 25, 2024, the Magistrate Judge recommended that this case should be dismissed without prejudice. (Doc. 11.) There are no objections.

In the Recommendation, the Magistrate Judge determined that Tallapoosa Assistant District Attorney Kevin M. Hall is entitled to absolute prosecutorial immunity. (Doc. 11 at 4.) This Court agrees. Importantly, because absolute prosecutorial immunity applies, the claims against Defendant Hall should be dismissed *with* prejudice. See, e.g., *Wood v. Bailey*, No. 2:21-cv-465-WKW-SMD, 2022 WL 10408224 (M.D. Ala. Aug. 5, 2022) (finding absolute prosecutorial immunity and recommending dismissal with prejudice); *Beaty v. H&W Tire and Auto*, No. 3:21-cv-210-WHA, 2021 WL 1343048 (M.D. Ala. April 9, 2021) (dismissing claims with prejudice prior to service of process in accordance with the directives of 28 U.S.C. § 1915(e)(2)(B)(ii) and (iii) because defendants entitled to

prosecutorial immunity); *Kivisto v. Soifer*, 587 F.App'x 522 (11th Cir. 2014) (unpublished) (affirming district court's dismissal of case with prejudice where prosecutor absolutely immune from suit).


After an independent and de novo review of the Recommendation, *see* 28 U.S.C. § 636(b), it is

ORDERED that:

1. With one exception, the Recommendation of the Magistrate Judge is ADOPTED;
2. The claims against Defendant Hall are dismissed with prejudice pursuant to 28 U.S.C. § 1915A(b)(2);
3. The claims against Defendants Duerr, Taylor, Martin, Hardaway, Giddens, and Burnett are dismissed without prejudice pursuant to 28 U.S.C. § 1915A(b)(1);
4. This case is DISMISSED; and
5. Any pending motions are terminated as moot.

A separate Final Judgment will be entered in accordance with this order.

DONE, on this the 3rd day of September 2024.



R. AUSTIN HUFFAKER, JR.
UNITED STATES DISTRICT JUDGE