

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

ORRIN MARABLE,)	
)	
Plaintiff,)	
)	
v.)	Case No. 2:14-cv-01960-WMA-SGC
)	
LUTHER STRANGE, et al.,)	
)	
Defendants.)	

MEMORANDUM OPINION

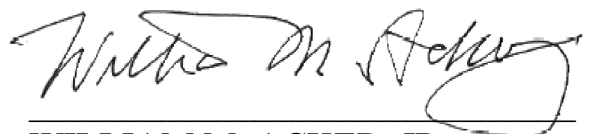
The magistrate judge filed a report and recommendation on November 3, 2015, recommending this action filed pursuant to 42 U.S.C. § 1983 be dismissed under 28 U.S.C. § 1915A(b)(1) for failing to state a claim on which relief may be granted. (Doc. 14). On December 7, 2015, the plaintiff filed objections to the report and recommendation and a motion for discovery. (Docs. 17 & 18).

In his objections, the plaintiff re-alleges his claims that state officials wrongfully used his prior juvenile convictions to enhance his current sentence. (Doc. 17). However, the plaintiff does not address the magistrate judge’s conclusion that the plaintiff’s challenge to the legality of his current confinement is barred by *Heck v. Humphrey*, 512 U.S. 477, 486-87 (1994). In *Heck*, the United States Supreme Court held that in order to recover for an allegedly unconstitutional conviction or sentence or for other harm caused by unlawful actions, which would render a

conviction or sentence invalid, a § 1983 plaintiff must prove the conviction or sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal authorized to make such determination, or called into question by a federal court's issuance of a writ of habeas corpus. *See id.* at 486-87. A claim for declaratory relief bearing that relationship to a conviction or sentence that has not been so invalidated is not cognizable under § 1983. *Edwards v. Balisok*, 520 U.S. 641, 648 (1997). The plaintiff has not alleged his sentence has been set aside such that he may recover declaratory relief in this § 1983 action.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the objections thereto, the court is of the opinion the magistrate judge's report is due to be and is hereby **ADOPTED** and the recommendation is **ACCEPTED**. Accordingly, the complaint is due to be dismissed without prejudice pursuant to 28 U.S.C. § 1915A(b)(1) for failing to state a claim on which relief may be granted. Additionally, because the plaintiff has not shown he is entitled to relief, his motion for discovery (Doc. 18) is **DENIED**. A final judgment will be entered.

DONE this 22nd day of December, 2015.



WILLIAM M. ACKER, JR.
UNITED STATES DISTRICT JUDGE