

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

CLARENCE J. RUTLAND,)

Plaintiff,)

vs.)

STATE OF ALABAMA, et al.,)

Defendants.)

Case No. 5:13-cv-00337-CLS-HGD


MEMORANDUM OF OPINION

The magistrate judge filed a report and recommendation on April 3, 2013, recommending that this action filed pursuant to 42 U.S.C. § 1983 be dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B) as to any challenge by plaintiff to his state court convictions and as to defendants Cecilia Pope, Pride Tompkins, Curtis Simpson, the Alabama Prison Commissioner, United States District Judge Inge Johnson and United States District Judge Karon Bowdre. The magistrate judge further recommended that the action, if construed as seeking federal habeas corpus relief with respect to any state court convictions, be denied as barred by the statute of limitations in 28 U.S.C. § 2244(d), and, if construed as a Motion to Vacate, Set Aside or Correct Sentence pursuant to 28 U.S.C. § 2255 with respect to his federal conviction, be denied as barred by the statute of limitations in 28 U.S.C. § 2255(f). Finally, the magistrate judge recommended that the claims against defendant Ike Harris be

transferred to the United States District Court for the Middle District of Alabama for all further proceedings. Plaintiff filed objections to the report and recommendation on April 10, 2013.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and plaintiff's objections thereto, the court is of the opinion that the magistrate judge's report is due to be, and it hereby is, ADOPTED, and the recommendation is ACCEPTED. Accordingly, the complaint is due to be dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B) as to any challenge by plaintiff to his state court convictions and as to defendants Cecilia Pope, Pride Tompkins, Curtis Simpson, the Alabama Prison Commissioner, United States District Judge Inge Johnson and United States District Judge Karon Bowdre. The complaint, if construed as seeking federal habeas corpus relief with respect to any state court convictions, is due to be denied as barred by the statute of limitations in 28 U.S.C. § 2244(d), and, if construed as a Motion to Vacate, Set Aside or Correct Sentence pursuant to 28 U.S.C. § 2255 with respect to his federal conviction, is due to be denied as barred by the statute of limitations in 28 U.S.C. § 2255(f). The claims against defendant Ike Harris are due to be transferred to the United States District Court for the Middle District of Alabama for all further proceedings. A Final Judgment and Order of Transfer will be entered.

DONE this 1st day of July, 2013.

A handwritten signature in black ink that reads "Lynwood Smith". The signature is written in a cursive style with a large initial "L".

United States District Judge