

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

BRICE M. HUTCHINGS, III,)
)
 Plaintiff,)
)
 v.)
)
 MARSHALL COUNTY)
 COURTHOUSE, et al.,)
)
 Defendants.)

Case No. 4:19-cv-01254-LCB-HNJ

MEMORANDUM OPINION

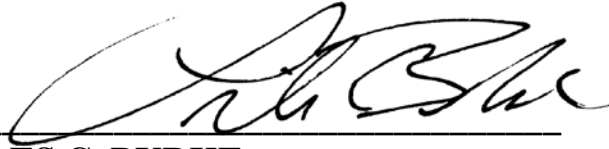
The Magistrate Judge entered a Report on April 2, 2021, recommending the Court dismiss this action for Brice Hutchings’ failure to state a claim upon which relief may be granted and for seeking monetary relief from a defendant immune from suit pursuant to 28 U.S.C. § 1915A(b)(1)–(2). (Doc. 14). Specifically, the Magistrate Judge determined Mr. Hutchings’ claims warrant dismissal based on sovereign and judicial immunity. (Doc. 14 at 4–6). The Magistrate Judge also concluded that *Heck v. Humphrey*, 512 U.S. 477, 486–87 (1994) bars Mr. Hutchings’ request for monetary relief for his wrongful convictions and sentences. (Doc. 14 at 6–7). On May 24, 2021, Mr. Hutchings filed objections to the Report and Recommendation. (Doc. 23). Mr. Hutchings also moved for appointment of counsel. (Doc. 20).

In his objections, Mr. Hutchings restates his claims that he was convicted and sentenced in Marshall County and Blount County on the same charge and requests that the court set aside his convictions. (Doc. 23 at 1–2). However, Mr. Hutchings’ objections are not responsive to the Magistrate Judge’s findings that this action is subject to dismissal on immunity grounds and the bar imposed by *Heck* which prohibits monetary or injunctive relief for an allegedly wrongful conviction or imprisonment that has not be set aside. Moreover, to the extent Mr. Hutchings seeks to have his convictions set aside, habeas corpus is the exclusive remedy for a prisoner attacking the validity of his conviction or confinement, and he may not do so through a § 1983 action. *See Preiser v. Rodriquez*, 411 U.S. 475, 500 (1973).

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 hereby **ADOPTS** the magistrate judge’s report and **ACCEPTS** his recommendation. Therefore, in accordance with 28 U.S.C. § 1915A(b)(1)–(2), this action is due to be dismissed without prejudice for failing to state a claim upon which relief may be granted and for seeking monetary relief from a defendant who is immune from such suit. Because Mr. Hutchings’ claims warrant dismissal, his motion for appointment of counsel is due to be denied. (Doc. 20).

A Final Judgment will be entered.

DONE and ORDERED June 2, 2021.

A handwritten signature in black ink, appearing to read "L.C. Burke", written over a horizontal line.

LILES C. BURKE
UNITED STATES DISTRICT JUDGE