

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
WESTERN DIVISION**

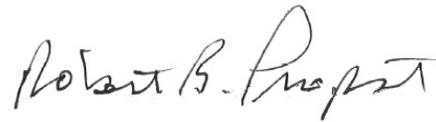
JOSEPH G. HERNANDEZ,	)	
	)	
Petitioner,	)	
	)	
v.	)	7:11-cv-3329-RBP-JEO
	)	
GLENN E. THOMPSON	)	
and the ATTORNEY GENERAL OF	)	
THE STATE OF ALABAMA,	)	
	)	
Respondents,	)	

**MEMORANDUM OPINION**

This case was filed in September 2011 by Joseph G. Hernandez, an Alabama state prisoner acting *pro se*. In his original pleading, filed in September 2011, styled as a “Petition for Declaratory Judgment Pursuant to [28 U.S.C. § 2201] and Article I, Section 10 [of the] U.S. Constitution,” Hernandez claims that, after pleading guilty to two counts of sexual abuse in an Alabama state court, he received a split sentence that was not authorized under Alabama state law. (Doc. 1). He asked the court to determine the legality of his sentence and to grant “a permanent injunction to bar the State from practicing these unconstitutional acts.” (*Id.* at 3-4). The court construed that pleading as an application for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Hernandez was thereafter resentenced by the State court, apparently based on the fact that he also filed a similar pleading in that court. Hernandez is clearly not satisfied with the result of that re-sentencing, which is actually harsher than his original sentence in that it is all “prison time,” with out any “split” portion to be served on probation. Nonetheless, on November 23, 2013, Hernandez moved this court to dismiss this action without prejudice, stating that he “has found other avenues of discourse that he can

pursue.” (Doc. 12). Because it would appear that Hernandez is seeking an opportunity to pursue other remedies that might be available in the Alabama courts regarding his resentencing, his motion to dismiss without prejudice is due to be GRANTED. A separate final order will be entered.

DONE, this the 8<sup>th</sup> day of April, 2014.

A handwritten signature in black ink, reading "Robert B. Propst". The signature is written in a cursive style with a large, looped initial "R".

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ROBERT B. PROPST  
SENIOR UNITED STATES DISTRICT JUDGE