

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION

JEREMY COLVIN,
Plaintiff,

v.

GREG CARR, et al.,
Defendants.

7:22-cv-659-CLM-GMB

MEMORANDUM OPINION

The magistrate judge has entered a report, recommending the court dismiss this case without prejudice under 28 U.S.C. § 1915A(b) for failing to state a claim upon which relief can be granted and for seeking monetary relief from defendants immune from claims for monetary damages. (Doc. 9). The magistrate judge advised Plaintiff Jeremy Colvin of his right to file written objections within 14 days. (*Id.* at 13). Colvin responded by filing a “motion to object,” which asked that he be given one final chance to amend his complaint. (Doc. 10). The magistrate judge granted Colvin’s motion and allowed him the opportunity to attempt to correct the pleading deficiencies noted in the magistrate judge’s report. (Doc. 11).


In his amended complaint, Colvin again names Deputy Greg Carr and Sheriff Todd Hall as defendants and restates many allegations in his original complaint. (Doc. 12). The magistrate judge recommended dismissal of Colvin’s official capacity claims against Carr and Hall because state officials are immune from official capacity suits seeking monetary damages. (Doc. 9 at 7–8). And the magistrate judge recommended dismissal of Colvin’s individual capacity claims against Carr and Hall because (a) Colvin hadn’t shown that these defendants lacked probable cause to arrest him, and (b) Colvin’s malicious prosecution claims weren’t yet ripe for review. (*Id.* at 10–12). Having reviewed the allegations against Carr and Hall in Colvin’s amended complaint, the court finds that they do not correct the pleading deficiencies that the magistrate judge identified.

Colvin’s amended complaint adds Circuit Clerk Keith Cox as a defendant. (Doc. 12 at 3). According to Colvin, “there wasn’t sufficient evidence in the affidavit of arrest to support the arrest warrant with oath, which was made by the Clerk, Keith Cox with the lack of evidence they bind the case over without probable cause.” (Doc. 12-1). As the magistrate judge noted, “Colvin has offered nothing factual or specific to suggest that the witnesses [against him] were lying or had a motive to falsify their statements.” (Doc. 9 at 11). Nor has Colvin specified what testimony was false “or identified any proffered evidence that was fabricated.” (*Id.*). Colvin’s new claims against Cox suffer from this same deficiency. (*See* Doc. 12-1).

After considering the record, the magistrate judge’s report, and Colvin’s amended complaint and objections, the court **ADOPTS** the report and **ACCEPTS** the recommendation. Consistent with that recommendation and 28 U.S.C. § 1915A(b), the court will dismiss this case without prejudice for failing to state a claim upon which relief can be granted and for seeking monetary damages from defendants who are immune from suit.

The court will enter a separate final judgment that carries out this ruling and closes this case.

Done on February 6, 2024.



COREY L. MAZE
UNITED STATES DISTRICT JUDGE