

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

<b>ERIC EUGENE JOHNSON,</b>	:	
<b>Plaintiff,</b>	:	
	:	
<b>v.</b>	:	<b>CIVIL ACTION 16-00595-KD-N</b>
	:	
<b>CITY OF FAIRHOPE, ALABAMA, et al.,</b>	:	
<b>Defendants.</b>	:	

**ORDER**

After due and proper consideration of the issues raised, and there having been no objections filed, the Report and Recommendation of the Magistrate Judge made under 28 U.S.C. § 636(b)(1)(B) and dated April 14, 2017, is **ADOPTED** as the opinion of this Court.

Accordingly, it is **ORDERED** that Plaintiff’s claim(s) be dismissed as set forth in the Report and Recommendation as follows:

- 1) Plaintiff’s § 1983 claim(s) based on the actions described in Plaintiff’s Complaint are dismissed with prejudice for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6) and on the grounds that the claims are barred by the applicable statute of limitations;
- 2) Plaintiff’s § 1983 claim(s) based on his conviction or sentence, to the extent Plaintiff was attempting to assert the same, are dismissed without prejudice as premature pursuant to Heck v. Humphrey, 512 U.S. 477, 489–90, 114 S.Ct. 2364, 2374, 129 L.Ed.2d 383 (1994); and
- 3) Plaintiff’s state law claims are dismissed without prejudice pursuant to 28 U.S.C. § 1367(c)(3) as Court will not exercise supplemental jurisdiction over those claims.

**DONE and ORDERED** this the **11<sup>th</sup>** day of **May 2017**.

/s/ Kristi K. DuBose  
**KRISTI K. DuBOSE**  
**CHIEF UNITED STATES DISTRICT JUDGE**