

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

DANIEL M. WILSON, #260779
Plaintiff,
vs.
WHITNEY MAHALOVICH,
Defendant.
CIVIL ACTION NO. 1:20-cv-8-TFM-B

MEMORANDUM OPINION AND ORDER

On January 13, 2020, the Magistrate Judge entered a report and recommendation which recommends Plaintiff’s complaint be dismissed with prejudice pursuant to 28 U.S.C § 1915(e)(2)(B). See Doc. 3. Plaintiff objected, though it is unclear whether they were timely filed as he did not sign or date them. See Doc. 4. Regardless, the Court has considered the objections. The Court has reviewed the report and recommendation, objection, and conducted a de novo review of the case file. For the reasons discussed below, the objection is OVERRULED and the Report and Recommendation is ADOPTED as modified.

28 U.S.C. § 1915(e)(2)(B) provides, in pertinent part: “[T]he court shall dismiss the case at any time if the court determines that . . . the action or appeal – (i) is frivolous or malicious, (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief.” Thus, when granting permission to proceed in forma pauperis, the Court is required to perform a review and shall dismiss a case if it meets any of these statutory reasons.

In his objections, Plaintiff reiterates many of his same arguments from his original complaint. He further makes allegations and complaints against other individuals he states were

involved in his revocation proceedings. Yet, none of these allegations address the substance of the Report and Recommendation or counter its well-reasoned legal analysis. Further, the Court agrees with the recommendation that allowing Plaintiff to amend would prove futile. Therefore, to the extent Plaintiff objects to the Report and Recommendation, those objections are **OVERRULED**.

The Court adopts the Report and Recommendation (Doc. 3) and this case is **DISMISSED without prejudice**¹ prior to service of process pursuant to 28 U.S.C. § 1915(e)(2)(B)

DONE and **ORDERED** this 9th day of March, 2020.

/s/Terry F. Moorer
TERRY F. MOORER
UNITED STATES DISTRICT JUDGE

¹ Though the recommendation states dismissal with prejudice, the Court modifies the dismissal to one *without prejudice* in the event Plaintiff is later able to satisfy the favorable termination requirement articulated in *Heck v. Humphrey*, 512 U.S. 477, 114 S. Ct. 2364, 129 L. Ed. 2d 383 (1994).