

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
JONESBORO DIVISION**

DEWAYNE ELLIOTT

PLAINTIFF

V.

CASE NO. 3:13CV00121 BSM

**ANDRE CRUMP and
TERRY HODGES**

DEFENDANTS

ORDER

Plaintiff Dewayne Elliott, an inmate housed at the Mississippi County Detention Facility, filed this case *pro se* under 42 U.S.C. § 1983 alleging that his constitutional rights were violated. [Doc. No. 2]. Mr. Elliott alleges that he was wrongfully arrested for a state criminal charge and that he has been unlawfully detained. Mr. Elliott's claims must be dismissed.

Any part of a complaint that raises a claim that is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from paying money damages must be dismissed. 28 U.S.C. § 1915A(b). First, in order to state a claim for relief under § 1983, Mr. Elliott must allege that a person acting under the color of state law deprived him of some constitutional right. Here, Elliott names as a defendant Andre Crump. Because Andre Crump is a private citizen and not a state actor, Elliott's claims against Crump fail. In addition, federal courts generally abstain from hearing cases, like this one, where there is an ongoing state judicial proceeding that implicates important state interests, and where the state proceeding affords an adequate opportunity to raise federal questions. *Norwood v. Dickey*, 409 F.3d 901, 903 (8th Cir. 2005); see also

Younger v. Harris, 401 U.S. 37, 59 (1971). Because Mr. Elliott has not stated a federal claim for relief, this case is dismissed without prejudice.

IT IS SO ORDERED this 21st day of June 2013.


UNITED STATES DISTRICT JUDGE