

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

DAMEON DAVIS
ADC #153194

PLAINTIFF

v.

No. 3:16-cv-195-DPM

CURTIS WALKER, Prosecuting Attorney,
Mississippi County; CHARLES E. ELLIS,
Public Defender, Mississippi County

DEFENDANTS

ORDER

1. Davis has filed a *pro se* complaint against his former public defender and a Mississippi County prosecutor. *№ 2*. He says they violated his constitutional rights during his state criminal proceedings. And he wants either money or to be released from prison. *№ 2 at 8*.

2. The Court must sort out what kind of case this is. Davis can't pursue both damages and release in the same lawsuit. If he wants to sue for damages, then a § 1983 complaint is appropriate. (His claims may still be barred by other federal law, though. *E.g., Heck v. Humphry*, 512 U.S. 477, 486–87 (1994)). If, on the other hand, Davis wants to challenge his conviction and try to get out of prison, then he must file a *habeas corpus* petition. *Preiser v. Rodriguez*, 411 U.S. 475, 500 (1973).

3. The Court needs clarification from Davis. He must file an amended pleading — either an amended § 1983 complaint or a *habeas corpus* petition — by 15 September 2016. If he doesn't, then his case will be dismissed without prejudice. LOCAL RULE 5.5(c)(2).

4. The Court directs the Clerk to send Davis a § 1983 complaint form and a § 2254 *habeas* petition form with a copy of this Order.

So Ordered.

D.P. Marshall Jr.
D.P. Marshall Jr.
United States District Judge

16 August 2016