

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
EL DORADO DIVISION

COREY SANDERS

PLAINTIFF

V.

CASE NO. 10-CV-1014

DAVID BUTLER, Columbia
County, Deputy Prosecuting Attorney;
and RANDY L. REED

DEFENDANTS

JUDGMENT

Before the Court is the Report and Recommendation filed April 29, 2010, by the Honorable Barry A. Bryant, United States Magistrate Judge for the Western District of Arkansas. (Doc. 6). Judge Bryant recommends that Plaintiff's complaint (ECF No. 1) be dismissed with prejudice because the claims asserted are frivolous, fail to state claims upon which relief may be granted, and are asserted against an individual immune from suit. *See* 28 U.S.C. § 1915A(b). Plaintiff has responded with objections. (ECF No. 7). After reviewing the record *de novo*, the Court adopts Judge Bryant's Report and Recommendation as its own.

Most of Plaintiff's objections to the Report and Recommendation challenge the fact that prosecutors acting as an advocate for the state in criminal prosecution are entitled to absolute immunity. *See Buckley v. Fitzsimmons*, 509 U.S. 259, 113 S. Ct. 2606 (1993); *Imbler v. Pachtman*, 424 U.S. 409, 431, 96 S. Ct. 984, 995 (1976). As noted in Judge Bryant's Report and Recommendation, David Butler is a prosecuting attorney and is entitled to absolute immunity in this case. *See Reasonover v. St. Louis County, Mo.*, 447 F.3d 569, 580 (8th Cir. 2006) (stating that a

prosecutor is absolutely immune from a civil conspiracy charge when his alleged participation in the conspiracy consists of otherwise immune acts and even if the prosecutor knowingly presented false, misleading, or perjured testimony or withheld exculpatory evidence, he is absolutely immune from suit). Thus, Plaintiff's objections regarding David Butler's immunity are without merit.

The Court has reviewed all of Plaintiff's objections and finds no merit in the objections. Accordingly, for reasons stated herein and above, as well as those contained in Judge Bryant's Report and Recommendation (ECF No. 6), Plaintiff's complaint is **DISMISSED WITH PREJUDICE**. Plaintiff is advised that this case is considered a "strike" pursuant to the "three strikes" provision in 28 U.S.C. § 1915(g), and the Clerk is directed to place the appropriate flag on this case.

IT IS SO ORDERED, this 24th day of February, 2011.

/s/ Harry F. Barnes
Hon. Harry F. Barnes
United States District Judge