

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF ARKANSAS
HOT SPRINGS DIVISION

ROBERT H. GAUTREAUX, SR.

PLAINTIFF

v.

Case No. 10-6002

SHERIFF LARRY SANDERS and
DEBORAH WASHINGTON, Department
of Human Services

DEFENDANTS

ORDER

Now on this 9th day of April 2010, there comes on for consideration the report and recommendation filed herein on March 11, 2010, by the Honorable James R. Marschewski, United States Magistrate Judge for the Western District of Arkansas. (Doc. 13). Also before the Court are Plaintiff's objections to the report and recommendation. (Docs. 17-19).

The court has reviewed this case *de novo* and, being well and sufficiently advised, finds as follows: The report and recommendation is proper and should be and hereby is adopted in its entirety. Accordingly, Plaintiff's Complaint is DISMISSED WITH PREJUDICE as barred by *Heck v. Humphrey*, 512 U.S. 477 at 486-87 (1994). (In order to recover damages for allegedly unconstitutional conviction or imprisonment, or for other harm caused by actions whose unlawfulness would render a conviction or sentence invalid, a § 1983 plaintiff must prove that the conviction or sentence has been [set aside].) See also, 28 U.S.C. § 1915(e)(2)(B)(i)-(iii) (IFP action, or any portion thereof, may be dismissed because it fails to state a claim or states a claim that

is not presently cognizable.) Plaintiff's attempt in this § 1983 action to attack his arrest as being made without probable cause was foreclosed by his guilty plea, and his contention that he received ineffective assistance of counsel is not properly before this Court.

IT IS SO ORDERED this 9th day of April 2010.

/s/ Robert T. Dawson
Honorable Robert T. Dawson
United States District Judge