

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION

DERICK SMITH,

Plaintiff,

v.

CASE NO. 1:06-cv-00195-MP-AK

OLESTER DICKENS, et al.,

Defendants.

ORDER

This matter is before the Court on Doc. 60, Report and Recommendation of the Magistrate Judge, which recommends that Defendants' motions to dismiss be granted and that Plaintiff's complaint be dismissed as barred by Heck v. Humphrey, 512 U.S. 477, 114 S. Ct. 2364, 2372, 129 L. Ed. 2d 383 (1994) and by the abstention doctrine, because there are ongoing state court proceedings raising the same issues in Plaintiff's complaint. The Magistrate filed the Report on November 25, 2008. The time for filing objections has passed, and no objection has been filed. Upon consideration, the Court agrees with the Magistrate that Plaintiff's complaint should be dismissed. Accordingly, it is hereby

ORDERED AND ADJUDGED:

1. The Report and Recommendation of the Magistrate Judge, Doc. 60, is ADOPTED and incorporated herein.

2. Defendants' motions at Docs. 49, 52, 56, and 59 are GRANTED, and Plaintiff's complaint, Doc. 1, is DISMISSED as barred by Heck v. Humphrey and by the abstention doctrine.

DONE AND ORDERED this 29th day of December, 2008

s/Maurice M. Paul

Maurice M. Paul, Senior District Judge