

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

ODELL RUTLEDGE, JR,

Plaintiff,

v.

CASE NO. 1:10-cv-00160-MP-GRJ

ALACHUA COUNTY
CIRCUIT COURT OF FLORIDA, et al,

Defendants.

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REPORT AND RECOMMENDATION

This matter is before the Court on a “complaint” entitled “Request for a Three Judge Court to Hear Movant’s Independent Action.” (Doc. 1). Plaintiff has not filed a proper complaint, a motion for leave to proceed *in forma pauperis*, or paid the filing fee, despite being directed to do so. (Doc. 9). The “complaint,” as filed, is indecipherable, and appears to name as defendants the Circuit Judge, who ruled on his post-conviction efforts, and the state attorney, who may have prosecuted him.

In response to an Order to Show Cause, (doc. 11), Plaintiff contends that the matter should be transferred to the District of Columbia. He does not address either his failure to file a proper complaint or the filing fee. There is no basis for transferring the matter to the District of Columbia because Plaintiff and the named defendants all reside in Florida.

Plaintiff was warned in the show cause order that it would be recommended that his case be dismissed for failure to prosecute if he did not comply with the Court’s previous order. Additional grounds for dismissal are that Plaintiff’s claims – such as

they can be determined from the papers so far filed in this cause – are baseless and the defendants named in the papers are immune from suit. See 28 U.S.C. §1915(e)(2)(B)(i) (court is required to dismiss a complaint at any time if it is determined to be frivolous) and Weaver v Geiger, 294 Fed. Appx. 529, 534 (11th Cir. 2008) (judges and prosecuting attorneys are absolutely immune from suit warranting §1915(e)(2)(B)(i) dismissal).

In light of the foregoing, it is respectfully **RECOMMENDED**

That this cause be **DISMISSED** for failure to prosecute and as frivolous under 28 U.S.C. §1915(e)(2)(B)(i).

At Gainesville, Florida, this 18th day of October, 2010.

s/ Gary R. Jones

GARY R. JONES
United States Magistrate Judge

NOTICE TO THE PARTIES

Pursuant to Fed. R. Civ. P. 72(b)(2), a party may file specific, written objections to the proposed findings and recommendations within 14 days after being served with a copy of this report and recommendation. A party may respond to another party's objections within 14 days after being served with a copy thereof. Failure to file specific objections limits the scope of review of proposed factual findings and recommendations.