

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

ALBERT NEWMAN, JR.,

Plaintiff,

v.

CASE NO. 4:08cv474-SPM/WCS

LEON COUNTY COMMISSIONERS,
et al.,

Defendants.

ORDER

THIS CAUSE comes before the Court on the magistrate judge's report and recommendation (doc. 7) dated December 22, 2008. Plaintiff has filed objections (doc. 8) pursuant to Title 28, United States Code, Section 636(b)(1). Having considered the objections, I have determined that the report and recommendation should be adopted.

Plaintiff's allegations do not rise to the level of special circumstances that would justify interfering with his pending state prosecution. See Younger v. Harris, 401 U.S. 37 (1971). Under the reasoning of Younger or Heck v. Humphrey, 512 U.S. 477 (1994), it would not be appropriate to proceed with this case because doing so would interfere with the pending criminal prosecution.

See Uboh v. Reno, 141 F.3d 1000, 1006 (11th Cir. 1998) (“A civil proceeding challenging the grounds on which the prosecution against Uboh had been commenced indirectly would implicate the question of Uboh’s guilt; this type of parallel inquiry by way of civil suit prior to the resolution of the criminal action based on the same set of events is precisely the quandary that *Heck* prohibits.”).

Accordingly, it is hereby ORDERED as follows:

1. The magistrate judge’s report and recommendation (doc. 7) is ADOPTED and incorporated by reference in this order.
2. This case is dismissed without prejudice for failure to state a claim upon which relief may be granted.
3. The Clerk of Court shall note on the docket that this case was dismissed under 28 U.S.C. § 1915(e)(2)(B)(ii).

DONE AND ORDERED this 7th day of January, 2009.

s/ Stephan P. Mickle

Stephan P. Mickle
United States District Judge