

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

THEODORE CHAIRES,

Plaintiff,

v.

CASE NO. 4:11cv140-RH/WCS

STATE OF FLORIDA, and
OFFICER A. FURNEY,

Defendants.

ORDER OF DISMISSAL

This case is before the court on the magistrate judge's second report and recommendation, ECF No. 15, and the objections, ECF No. 16. I have reviewed *de novo* the issues raised by the objections.

The objections assert, in effect, that *Heck v. Humphrey*, 512 U.S. 477 (1994), was wrongly decided, or that applying its doctrine in this case would be unjust. But *Heck* is the law of the land and squarely applies here. The plaintiff may challenge his underlying convictions only in an appropriate manner—by a petition for writ of habeas corpus or analogous motion—not in a federal civil rights action under 42 U.S.C. § 1983. Accordingly,

IT IS ORDERED:

1. The second report and recommendation is ACCEPTED and adopted as the court's opinion.
2. The clerk must enter judgment stating, "The complaint is dismissed under 28 U.S.C. § 1915(e)(2)(B)."
3. The amend motion for leave to proceed in forma pauperis, ECF No. 12, is DENIED AS MOOT.
4. The first report and recommendation, ECF No. 10, is VACATED AS MOOT.
5. The clerk must close the file.

SO ORDERED on August 10, 2011.

s/Robert L. Hinkle
United States District Judge