

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

GARIN LEE DANIEL,

Plaintiff,

v.

CASE NO. 4:14cv627-RH/GRJ

TERRY LANGLEY et al.,

Defendants.

_____ /

ORDER OF DISMISSAL

This case is before the court on the magistrate judge's report and recommendation, ECF No. 4, and the objections, ECF No. 5. I have reviewed *de novo* the issues raised by the objections.

The report and recommendation correctly concludes that venue is not proper in this court and that the case should be dismissed, not transferred. The venue discussion is adopted as the court's opinion.

There also is a more fundamental reason for dismissal. Under *Heck v. Humphrey*, 512 U.S. 477, 487 (1994), a state prisoner cannot properly pursue a § 1983 action that, if successful, necessarily would imply the invalidity of a state

conviction, unless the conviction has been set aside in a separate proceeding. In this § 1983 action, the plaintiff attacks his arrest and conviction on Georgia state charges. As relief, he asks to be released from custody. The plaintiff's claims are squarely barred by *Heck*.

Transferring this case to a district court in Georgia would cause that court to conduct the same review I have conducted and would lead to the same result: the case would be dismissed. Transferring the case would waste judicial resources and would not serve the interest of justice.

For these reasons,

IT IS ORDERED:

The report and recommendation is **ACCEPTED**. The clerk must enter judgment stating, "The complaint is dismissed." The clerk must close the file.

SO ORDERED on December 9, 2014.

s/Robert L. Hinkle
United States District Judge