

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

ANTHONY YOUNG	:	
	:	
Petitioner,	:	
	:	
VS.	:	
	:	
FEDERAL BUREAU OF	:	CIVIL ACTION NO. 4:06-CV-16 (CDL)
INVESTIGATION,	:	WRIT OF MANDAMUS
	:	
Respondent.	:	

RECOMMENDATION OF DISMISSAL

Before the court is Petitioner’s application for a writ of mandamus, along with a motion to proceed without the prepayment of the required filing fee. The Petitioner is currently an inmate at the Wilcox State Prison in Abbeville, Georgia. Because the Petitioner is filing his Motion in the federal district court, his use of mandamus is limited. Title 28 of the United States Code, § 1361 states that “The district courts shall have original jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.” Thus, federal mandamus is available only “to compel an officer or employee of the United States ... to perform a duty **owed** to the Petitioner.” 28 U.S.C. § 1361 (emphasis added). Here, the Petitioner seeks to have the court “issue an order to commence an investigation by the Federal Bureau of Investigation (F.B.I.), the Defendant(s), against Mrs. Minnie Ruth Jennings-Cooper, the accused... for the theft and conversion of 200 acres of land located in Randolph County, Georgia ... ” The Petitioner claims that he is heir to the property being

fraudulently held by Mrs. Jennings-Cooper. The Petitioner's claim, however, fails to state a legitimate basis for mandamus relief under 28 U.S.C. § 1361. The allegations in Petitioners' request fail to allege any duty owed to him which would require the court to compel court intervention. Therefore, Petitioner fails to state a claim upon which relief can be granted. As such, Petitioner's request to proceed *In Forma Pauperis* should also be denied.

ACCORDINGLY, IT IS THE RECOMMENDATION of the United States Magistrate Judge that the instant Petition be **DISMISSED** without prejudice, for failure to state a claim on which relief may be granted.

Pursuant to 28 U.S.C. § 636(b)(1), Petitioner may serve and file written objections to this **RECOMMENDATION** with the United States District Judge, **WITHIN TEN (10) DAYS** after being served with a copy thereof.

SO RECOMMENDED, this 1st day of February, in the year 2006.

S/ G. MALLON FAIRCLOTH
UNITED STATES MAGISTRATE JUDGE