

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION

FILED
U.S. DISTRICT COURT
2008 SEP 26 PM 4:28
CLERK *C. Robinson*
SO. DIST. OF GA.

BOBBY DICKERSON,

Plaintiff,

v.

ANDREW C. GALLOP and
ALGEEN DICKERSON,

Defendants.

CIVIL ACTION NO.: CV608-085

MAGISTRATE JUDGE'S ORDER
and REPORT AND RECOMMENDATION

Plaintiff, a detainee at Georgia Regional Hospital in Savannah, Georgia, has submitted to the Court for filing a complaint and an application seeking to proceed *in forma pauperis*.

Plaintiff seeks to file his complaint under 42 U.S.C. § 1983. He alleges that he had an agreement with the landlord of the trailer park where he lived that he would maintain the grounds in return for his monthly rental fee of \$130.00. Plaintiff states that while he was incarcerated for seven days, Defendants evicted him from his home and destroyed his property. Plaintiff seeks an order directing Defendants to return his property and to pay him \$100,050.00 in damages.

A plaintiff states a cognizable claim for relief under 42 U.S.C. § 1983 if his complaint alleges facts showing that his rights as secured by the Constitution and the laws of the United States were violated, and that the violation was committed by a person acting under

color of state law. Touchston v. McDermott, 234 F.3d 1133, 1137 (11th Cir. 2000). 42 U.S.C. § 1983 provides a remedy for violations of a person's constitutional rights by a defendant who acts under color of state law, *i.e.*, a "state actor." A successful section 1983 action requires a showing that the conduct complained of was committed by a person acting under color of state law. Harvey v. Harvey, 949 F.2d 1127, 1130 (11th Cir. 1992). Plaintiff has failed to show that Defendants were state actors at the time of the alleged incident. In addition, Plaintiff has made no showing of an alleged violation of his constitutional rights.

Accordingly, Plaintiff's application to proceed *in forma pauperis* is **DENIED**. Furthermore, it is my **RECOMMENDATION** that Plaintiff's Complaint be **DISMISSED** for failure to state a claim for relief under 42 U.S.C. § 1983.

So **ORDERED** and **REPORTED** and **RECOMMENDED**, this 26th day of September, 2008.



JAMES E. GRAHAM
UNITED STATES MAGISTRATE JUDGE