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WESTERN DISTRICT OF LOUISIANA

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

MONROE DIVISION

KENYON L. CALDWELL

CIVIL ACTION NO. 3:10-cv-0526

VERSUS

SECTION P

JUDGE ROBERT G. JAMES

OFFICER DOUG LAMBERT

MAGISTRATE JUDGE KAREN L. HAYES

JUDGMENT

For the reasons stated in the Report and Recommendation of the Magistrate Judge previously filed herein, and after an independent review of the record, determining that the findings are correct under the applicable law, and considering the objections to the Report and Recommendation in the record,

IT IS ORDERED that the Clerk of Court serve on Defendant, through the U.S. Marshal, two (2) completed summons forms for the Defendant, one (1) USM-285 form for the Defendant, and a copy of the Magistrate Judge's Report and Recommendation [Doc. 7], this Judgment, and the Complaint and Amended Complaint [Docs. 1 and 6].

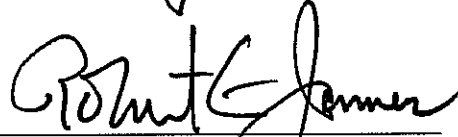
IT IS FURTHER ORDERED that this action— insofar as it seeks monetary damages for wrongful arrest, imprisonment and prosecution – be **STAYED** under the following conditions:

- a. Within thirty (30) days of the date the state court criminal proceedings against Plaintiff have concluded, the parties must file a status report with the Clerk of Court;
- b. If, after conclusion of the state court criminal proceedings, the stay is lifted and the Court finds Plaintiff's claims would impugn the validity of his conviction, the action will be dismissed under *Heck v. Humphrey*, 512 U.S. 477 (1994); if no such finding is made, the action will proceed at that time, absent some other bar to suit. See *Wallace v. Kato*, 549 U.S. 384, 393-94 (2007);
- c. In light of the stay, Plaintiff should not file any more documents in this action until the state court proceedings have concluded; and
- d. Defendant shall not be required to answer during the pendency of the stay,

and Plaintiff may not seek a default judgment or conduct any discovery.

IT IS FURTHER ORDERED that this action – insofar as Plaintiff seeks the dismissal of the pending criminal charges and his immediate release from custody – be construed as a petition for writ of *habeas corpus* **AND** that it be **DISMISSED WITHOUT PREJUDICE** because Plaintiff failed to exhaust available state court remedies prior to filing his suit.

MONROE, LOUISIANA, this 2 day of August, 2010.

A handwritten signature in black ink, appearing to read "Robert G. James", written over a horizontal line.

ROBERT G. JAMES
UNITED STATES DISTRICT JUDGE