

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION**

JERMANE MCKINNEY

PLAINTIFF

v.

No. 1:15CV1-SA-SAA

**DESOTO COUNTY JAIL
OF HERNANDO, ET AL.**

DEFENDANTS

ORDER OF DISMISSAL

The court, *sua sponte*, takes up the dismissal of the plaintiff's case filed under [42 U.S.C. § 1983](#). The plaintiff, a prisoner proceeding *pro se*, seeks review of his sentence imposed under the laws of Mississippi. McKinney alleges that the state court improperly revoked his parole and imposed a sentence greater than that permitted under Mississippi law. The plaintiff does not challenge the conditions of his confinement, as required under [42 U.S.C. § 1983](#); he instead challenges the fact and duration of his confinement, a claim which he should have brought as a *habeas corpus* claim under [28 U.S.C. § 2254](#). A claim under [42 U.S.C. § 1983](#) does not accrue until the conviction or sentence has been invalidated. *Heck v. Humphrey*, 512 U.S. 477, 489-90 (1994). As the plaintiff has not shown that his conviction or sentence has been reversed, expunged, invalidated or impugned by the grant of a writ of *habeas corpus*, his claim under [42 U.S.C. § 1983](#) is not ripe for consideration and should be dismissed without prejudice to his ability to file a *habeas corpus* claim under [42 U.S.C. § 1983](#).

However, as McKinney appears to have stated a claim under [28 U.S.C. § 2241](#), the Clerk of the Court is **DIRECTED** open a new case with the current complaint and provide the plaintiff with the court forms used for seeking relief under [28 U.S.C. § 2254](#).

The plaintiff is **ORDERED** to submit his claims on the form provided by the court within 28 days of the date of this order.

SO ORDERED, this the 12th day of March, 2015.

/s/ Sharion Aycock
U.S. DISTRICT JUDGE