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> IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF MISSISSIPPI

**DELTA DIVISION** 

KEITH D. BREWER

**PLAINTIFF** 

V.

NO. 2:09CV089-P-D

NANCY LIDDELL, et. al

**DEFENDANTS** 

**ORDER DENYING MOTION** 

On May 22, 2009, the Plaintiff an inmate proceeding pro se filed his complaint pursuant to

42 U.S.C. § 1983. Since the Plaintiff is currently incarcerated in Grady, Arkansas, the matter was

dismissed without prejudice to his right to re-file upon his return to this state or release from

confinement. The Plaintiff has now filed a motion for reconsideration of the dismissal which the

court will treat as a motion to alter or amend the judgment under Rule 60(b) of the Federal Rules

of Civil Procedure.

As before, after reviewing the original pleadings as well as the motion and the applicable

law, the court concludes that the June 30, 2009, dismissal was correct in law and fact and that

Plaintiff has failed to produce a factual or legal basis to alter the court's ruling. See Heck v.

Humphrey, 512 U.S. 477, 114 S. Ct. 2364, 129 L. Ed. 2d 383 (1994) (a cause of action does not

accrue under 42 U.S.C. § 1983 until the plaintiff's conviction or sentence has been invalidated).

Therefore, the motion to alter or amend judgment (docket entry 11) is hereby DENIED. The

Plaintiff's motion to appoint counsel (docket entry 12) is also DENIED as moot.

SO ORDERED:

THIS, the 9<sup>th</sup> day of July, 2009.

/s/ W. Allen Pepper, Jr. W. ALLEN PEPPER, JR.

UNITED STATES DISTRICT JUDGE

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