

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

OTIS OLIVER MCCRAY

PLAINTIFF

v.

CIVIL ACTION NO. 5:17-cv-11-DCB-MTP

KELLY SUZANNE OLIVE

DEFENDANT

ORDER ADOPTING REPORT AND RECOMMENDATION

This cause is before the Court on Magistrate Judge Michael T. Parker's Report and Recommendation (docket entry 27), to which no objections were filed.¹ Having carefully reviewed the same, the Court finds that the Report and Recommendation is well-taken and should be adopted as the opinion of this Court.

Plaintiff Otis Oliver McCray ("McCray")'s federal claims under 42 U.S.C. § 1983 are barred by Heck v. Humphrey, 512 U.S. 477, 486-87 (1994), because his convictions have not been reversed, expunged, declared invalid, or called into question by federal habeas corpus. Furthermore, any amendment to the plaintiff's *pro se* pleadings would be futile as none of the Heck conditions have been satisfied in this case. The Court shall therefore dismiss the plaintiff's § 1983 claims with prejudice to their being asserted again unless and until the Heck conditions are met.

¹ The plaintiff has filed a Letter (docket entry 28) responding to the Report and Recommendation. Within this letter, the plaintiff expressly states, "I have no wish to object to the [r]emand." Doc. 28. Attached to the Letter is a series of pleadings addressed to the Circuit Court of Wilkinson County, which re-allege many of the plaintiff's claims. However, these documents do not appear to raise any objection to Judge Parker's report.

Because the plaintiff's federal claims are subject to dismissal, the Court declines to exercise supplemental jurisdiction over McCray's remaining state-law claims.

Accordingly,

IT IS HEREBY ORDERED that Magistrate Judge Michael T. Parker's Report and Recommendation (docket entry 27) is ADOPTED as the findings and conclusions of this Court;

FURTHER ORDERED that Defendant's Motion for Judgment on the Pleadings as to Federal Claims (docket entry 14) is GRANTED;

FURTHER ORDERED that Plaintiff's claims under 42 U.S.C. § 1983 are dismissed with prejudice to their being asserted again until the Heck conditions are met;

FURTHER ORDERED that Defendant's Motion for Judgment on the Pleadings as to State Law Claims (docket entry 12) is DENIED without prejudice insofar as the Court declines to exercise supplemental jurisdiction over Plaintiff's state law claims;

FURTHER ORDERED that all remaining motions (docket entries 3, 4, 5, 6, 7, 11, 16, 17, 18, and 19) are denied as MOOT.

A Final Judgment dismissing Plaintiff's federal claims will follow in accordance with Federal Rule of Civil Procedure 58. A separate order of remand transferring the above styled and numbered cause to the Circuit Court of Wilkinson County, Mississippi shall issue this day.

SO ORDERED, this the 18th day of May, 2017.

/s/ David Bramlette
UNITED STATES DISTRICT JUDGE