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# U.S. District Court Northern District of Alabama (Middle) CIVIL DOCKET FOR CASE #: 4:04-cv-01017-RBP-HGD

Abimbola, et al v. Robinson, et al Assigned to: Judge Robert B Propst

Referred to: Mag-Judge Harwell G Davis, III

Demand: \$0

Cause: 42:1983 Prisoner Civil Rights

Date Filed: 05/17/2004 Jury Demand: None

Nature of Suit: 555 Prisoner Petition

(Prison Condition)

Jurisdiction: Federal Question

#### **Plaintiff**

Rafiu Abimbola

represented by Rafiu Abimbola

A72-852-210

**ECJ** 

Etowah County Jail 827 Forrest Avenue Gadsden, AL 35901

PRO SE

# **Plaintiff**

Adalberto M Andrade

TERMINATED: 06/15/2004

## **Plaintiff**

Alexander W Ndaula

TERMINATED: 06/15/2004

#### **Plaintiff**

**Leroy Bacchus** 

TERMINATED: 06/15/2004

#### **Plaintiff**

Nico Benn

TERMINATED: 06/15/2004

#### **Plaintiff**

Hussien Nasrallah

TERMINATED: 06/15/2004

#### **Plaintiff**

**Abdul K Muhammad** 

TERMINATED: 06/15/2004

represented by Abdul K Muhammad

**ECJ** 

Etowah County Jail 827 Forrest Avenue Gadsden, AL 35901 PRO SE

## **Plaintiff**

**Agusto Moreira** 

TERMINATED: 06/15/2004

## **Plaintiff**

Jean Dorival

TERMINATED: 06/15/2004

#### **Plaintiff**

**Christian Gonzalez** 

TERMINATED: 06/15/2004

#### **Plaintiff**

**Enirque Lopez** 

TERMINATED: 06/15/2004

## **Plaintiff**

Okechucwu Amadi

TERMINATED: 06/15/2004

#### **Plaintiff**

**Adriono Quante** 

TERMINATED: 06/15/2004

#### **Plaintiff**

**Dervin Heaven** 

TERMINATED: 06/15/2004

#### **Plaintiff**

Bandioujau Sacko

TERMINATED: 06/15/2004

## **Plaintiff**

#### Raed Jaghama

TERMINATED: 06/15/2004

#### **Plaintiff**

**Patrick Brown** 

TERMINATED: 06/15/2004

#### **Plaintiff**

**Hubert Taylor** 

TERMINATED: 06/15/2004

## **Plaintiff**

**Claud Williams** 

TERMINATED: 06/15/2004

#### **Plaintiff**

**Eric Bell** 

TERMINATED: 06/15/2004

#### **Plaintiff**

Franklin Moreno

TERMINATED: 06/15/2004

#### **Plaintiff**

**Jose Gonzales** 

TERMINATED: 06/15/2004

V.

# **Defendant**

# **Craig Robinson**

Field Office Director, U.S. Immigration & Customs

# represented by John C Bell

US ATTORNEY'S OFFICE 1801 4th Avenue North Birmingham, AL 35203-2101

244-2001

Email: John.Bell2@usdoj.gov

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

# **Defendant**

#### Wes Williamson

Chief, Etowah County Detention Center

## represented by Daryl L Masters

WEBB & ELEY PC

166 Commerce Street, Suite 300

PO Box 238

Montgomery, AL 36101-0238

1-334-262-1850

Email: rrobertson@webbeley.com

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

#### John C Bell

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

## Winthrop E. Johnson

WEBB & ELEY PC

7475 Halcyon Pointe Drive

P. O. Box 240909

Montgomery, AL 36124

US

334-262-1850

Fax: 334-262-1889

Email: wjohnson@webbeley.com ATTORNEY TO BE NOTICED

## **Defendant**

## **James Hayes**

Sheriff, Etowah County

# represented by Daryl L Masters

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

# Winthrop E. Johnson

(See above for address)

ATTORNEY TO BE NOTICED

# **Defendant**

#### **Dean Hoth**

ICE supervisor, Etowah County Detention Center

# represented by John C Bell

(See above for address)

LEAD ATTORNEY

ATTORNEY TO BE NOTICED

# **Defendant**

# **Mark Johns**

ICE Field Director, Atlanta

Date Filed #		Docket Text	
05/17/2004	1	COMPLAINT filed (referred to Mag-Judge Harwell G. Davis III ) (MAA) (Entered: 05/19/2004)	
05/17/2004	2	MOTION by plaintiff Rafiu Abimbola for order for class certification filed (MAA) (Entered: 05/19/2004)	
05/17/2004	3	DECLARATION in support of request to proceed ifp by plaintiff Rafiu Abimbola filed (MAA) (Entered: 05/19/2004)	
06/15/2004	4	ORDER-Complaint deemed to have been filed by first named pla, Rufiu Abimbola; Clerk DIRECTED to make 21 copies of complaint, open new and separate cases for each named inmate, denying motion for order for class certification [2-1] filed (by Judge Robert B. Propst) cm (MAA) (Entered: 06/15/2004)	
06/15/2004		DOCKET modification (utility event) terminating party Jose Gonzales, party Franklin Moreno, party Eric Bell, party Claud Williams, party Hubert Taylor, party Patrick Brown, party Raed Jaghama, party Bandioujau Sacko, party Dervin Heaven, party Adriono Quante, party Okechucwu Amadi, party Enirque Lopez, party Christian Gonzalez, party Jean Dorival, party Agusto Moreira, party Abdul K Muhammad, party Hussien Nasrallah, party Nico Benn, party Leroy Bacchus, party Alexander W Ndaula, party Adalberto M Andrade see doc #4 (MAA) (Entered: 06/15/2004)	
06/17/2004	<u>5</u>	RESPONSE by plaintiff Leroy Bacchus filed (MAA) (Entered: 06/18/2004)	
06/29/2004	6	ORDER -Pla must correct the deficient pleading w/iu 30 days as set out filed (by Mag-Judge Harwell G. Davis III) cm (MAA) (Entered: 06/30/2004)	
07/08/2004	7	OPPOSITION by plaintiff Rafiu Abimbola to order [4-1] filed (MAA) (Entered: 07/08/2004)	
07/14/2004	8	MOTION by plaintiff Rafiu Abimbola to proceed in forma pauperis with affidavit of Rafiu Abimbola attached filed (MAA) (Entered: 07/15/2004)	

08/05/2004	9	REQUEST by plaintiff Rafiu Abimbola for case status filed no cs (KSS) (Entered: 08/05/2004)	
09/13/2004	<u>10</u>	ORDER -"Notice of Appeal" (doc #7) is construed as motion for reconsideration of 6/15/04 order and is DENIED filed ( by Judge Robert B. Propst ) cm (MAA) (Entered: 09/13/2004)	
09/13/2004	<u>11</u>	ORDER terming motion (application) of pla to proceed IFP; pla is directed to pay a partial filing fee of \$ 8.40 and sign the attached consent form failing which the case will be dismissed w/o further notice filed (by Magistrate-Judge Paul W. Greene for U. S. Magistrate Harwell G. Davis III) cm (MAA) (Entered: 09/13/2004)	
09/30/2004	12	MOTION by plaintiff Rafiu Abimbola for reconsideration of order requesting partial/full payment of filing fees and denying motion for class certification filed cs (Former Employee) (Entered: 10/01/2004)	
11/18/2004	<u>13</u>	ORDER Pla ORDERED to certify in writing and under oath that he is not presently accused of, convicted of, sentenced for, ar adjudicated delinquent for violations of criminal law or the terms and conditions of parole, probation, pretrial release, or diversionary program wi U.S.C. 1915(h). Signed by Judge Harwell G Davis III on 11/18/04. (MAA, ) (Entered: 11/18/2004)	
11/29/2004	14	Declaration by Rafiu Abimbola on behalf of himself and "co plaintiffs" certifying that plas are civil detainees (MAA, ) (Entered: 11/30/2004)	
12/22/2004	<u>15</u>	ORDER granting pla's application to proceed in forma pauperis, Clerk is directed to term doc's <u>3</u> Affidavit filed by Rafiu Abimbola, <u>8</u> Motion for Leave to Proceed in forma pauperis filed by Rafiu Abimbola, . Signed by Judge Harwell G Davis III on 12/20/2004. (KSS, ) (Entered: 12/22/2004)	
02/10/2006	<u>16</u>	REPORT AND RECOMMENDATION that action be DISMISSED for failing to state a claim upon which relief can be granted pursuant to 28 U.S.C.1915 (e)(2)(B)(ii), objections within 15 days, Objections to R&R due by 2/27/2006. Signed by Judge Robert B Propst on 2/10/06. (MAA, ) (Entered: 02/10/2006)	
02/15/2006	<u>17</u>	MOTION for Extension of Time of 30 days to object to Magistrate's R&R by Rafiu Abimbola. (MAA, ) (Entered: 02/17/2006)	
02/24/2006		ORDER granting 17 Motion for Extension of Time; objections to Report and Recommendation to be filed by 3/27/06. Signed by Judge Harwell G Davis III on 2/24/06. (LBG, ) (Entered: 02/24/2006)	

03/29/2006	<u>18</u>	Opposition to Magistrate Judge's Report & Recommendation filed by Rafiu Abimbola. (Attachments: # 1)(MAA, ) (Entered: 03/30/2006)	
07/10/2006	<u>19</u>	REPORT AND RECOMMENDATION that all claims except the claim against Wes Williamson, Sheriff James Hayes and Dean Hoth that pla has been denied access to outdoor recreation be DISMISSED for failing to state a claim upon which relief can be granted pursuant to 28 U.S.C. 1915 (e)(2)(B)(ii), obj within 11 days . Signed by Judge Harwell G Davis III on 7/10/06. (MAA, ) (Entered: 07/10/2006)	
07/21/2006	<u>20</u>	MOTION for Extension of Time to 8/20/06 to file objection to Report and Recommendation by Rafiu Abimbola. (MAA, ) (Entered: 07/21/2006)	
07/25/2006		ORDER granting 20 petitioner's motion for extension of time to file objections to magistrate judge's report and recommendation. Signed by Judge Harwell G Davis III on 7/25/2006. (SHW) (Entered: 07/25/2006)	
07/25/2006	<u>21</u>	MOTION for Preliminary Injunction Directing transfer from Etowah County Jail by Rafiu Abimbola. (MAA, ) (Entered: 07/26/2006)	
07/25/2006	22	Brief in support of motion for preliminary injunction. (MAA, ) (Entered: 07/26/2006)	
08/30/2006	23	ORDER-It is ORDERED that dfts Wes Williamson, Sheriff James Hayes and Dean Hoth respond to pla's motion for preliminary injunction within 11 days; failure to respond within time prescribed may result in the imposition of the injunctive relief requested in pla's motion; Clerk DIRECTED to serve order upon pla; further DIRECTED to serve order and a copy of pla's motion [doc #21) and memo of law [doc #22] upon dfts Wes Williamson, Sheriff James Hayes and Dean Hoth at the Etowah County Detention Center. Signed by Judge Harwell G Davis III on 8/30/06. (MAA, ) (Entered: 08/30/2006)	
09/05/2006	<u>24</u>	Opposition to report and recommendation <u>19</u> filed by Rafiu Abimbola. (MAA, ) (Entered: 09/08/2006)	
09/11/2006	<u>25</u>	MOTION for Extension of Time to File Response/Reply as to <u>23</u> Order,, by Craig Robinson, Wes Williamson, Dean Hoth. (Bell, John) (Entered: 09/11/2006)	
09/12/2006		ORDER granting 25 Motion for Extension of Time to File Response/Reply; response to plaintiff's motion for injunctive relief to be filed by 10/13/06. Signed by Judge Harwell G Davis III on 09/12/06. (LBG, ) (Entered: 09/12/2006)	

09/14/2006	<u>26</u>	Opposition to motion for extension of time <u>25</u> filed by Rafiu Abimbola. (MAA, ) (Entered: 09/18/2006)	
09/27/2006	<u>27</u>	NOTICE of Appearance by Winthrop E. Johnson on behalf of Wes Williamson, James Hayes (Johnson, Winthrop) (Entered: 09/27/2006)	
10/13/2006	<u>28</u>	MOTION to Dismiss: Response to Order Entered On August 30, 2006 and in the Alternative, Motion to Dismiss by Dean Hoth. (Attachments: # 1 Declaration of Dean Hoth# 2 Exhibit A to Declaration# 3 Exhibit B to Declaration# 4 Exhibit C to Declaration# 5 Exhibit D to Declaration# 6 Exhibit E to Declaration# 7 Exhibit F to Declaration# 8 Exhibit G to Declaration)(Bell, John) (Entered: 10/13/2006)	
10/13/2006	<u>29</u>	RESPONSE to <i>Plaintiff's Motion for Preliminary Injunction</i> filed by Wes Williamson, James Hayes. (Attachments: # 1 Exhibit A (Abimbola Opinions# 2 Exhibit B (Hassell Affidavit)# 3 Exhibit C (Intergovernmental Service Agreement)# 4 Exhibit D (Hoth Declaration # 5 Exhibit E (Thomas E-Mail Traffic))(Masters, Daryl) (Entered: 10/13/2006)	
10/18/2006	<u>30</u>	MOTION for Extension of Time of 14 days to respond to motion to dismiss by Rafiu Abimbola. (MAA, ) (Entered: 10/18/2006)	
10/23/2006		ORDER granting 30 plaintiff's Motion for Extension of Time. Signed by Judge Harwell G Davis III on 10/23/2006. (SHW) (Entered: 10/23/2006)	
10/26/2006	31	ORDER adopting and accepting 19 Report and Recommendation, ORDERED that all of pla's claims except claim against Wes Williamson, Sheriff James Hayes and Dean Hoth that pla has been denied access to outdoor recreation are DISMISSED pursuant to 28 U.S. C. 1915 (e)(2)(B)(ii); further ORDERED that the remaining claim against dfts are REFERRED to the magistrate judge for further proceedings. Signed by Judge Robert B Propst on 10/16/06. (MAA, ) (Entered: 10/26/2006)	
11/03/2006	<u>32</u>	Opposition to dft's response 29 to motion for prelim injunction filed by Rafiu Abimbola. (MAA, ) (Entered: 11/03/2006)	
11/03/2006	<u>33</u>	Declaration of Rafiu Abimbola in support of opposition. (MAA, ) (Entered: 11/03/2006)	

11/20/2006	<u>34</u>	Defendant's Objections to Plaintiff's Reply to Defendants' Response> filed by Wes Williamson, James Hayes. (Attachments: # 1 Exhibit AA (Affidavit of Scott Hassell)# 2 Exhibit BB (Affidavit of Eddie Blythe)) (Johnson, Winthrop) (Entered: 11/20/2006)	
12/11/2006	<u>35</u>	REPLY to dfts' objection <u>34</u> with declaration of Andrew Hango, declaration of Dervin Heaven and attachments filed by Rafiu Abimbola. (MAA, ) (Entered: 12/12/2006)	
01/11/2007	<u>36</u>	MOTION to Dismiss <i>as Moot</i> by Craig Robinson. (Attachments: # <u>1</u> Exhibit 1: Declaration of Smith with attachment)(Bell, John) (Entered: 01/11/2007)	
03/20/2007	<u>37</u>	ORDER -For reasons as set out in order, it is ORDERED that this action is DISMISSED WITHOUT PREJUDICE, for want of prosecution, DISMISSING CASE. Signed by Judge Robert B Propst on 3/20/07. (MAA, ) (Entered: 03/20/2007)	
04/02/2007		Mail Returned, received 3/28/07 as Undeliverable. Mail sent to Rafiu Abimbola (MAA, ) (Entered: 04/02/2007)	
04/04/2007		Mail Returned (order of 3/20/07) as Undeliverable. Mail sent to Abdul K. Muhammad (MAA, ) (Entered: 04/04/2007)	

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