

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

**RALPH ARNOLD SMITH, JR.**

**PLAINTIFF**

**V.**

**CAUSE NO. 3:16-CV-00129-CWR-FKB**

**JAMES M. HOOD; ALBERT LEE  
ABRAHAM, JR.; CYNTHIA T. EUBANK;  
STANLEY ALEXANDER; ONETTA  
WHITLEY; RALPH E. CHAPMAN; H.  
SCOTT SPRAGINS; M.D. REB  
MCMICHAEL; LUKE SAVOIE; M.D.  
PAUL SCOTT MCGINNIS; JAMES G.  
CHASTAIN; THE MISSISSIPPI  
DEPARTMENT OF MENTAL HEALTH;  
JOHN DOES 1-20; and LAWRENCE  
JOHN TUCKER, JR.**

**DEFENDANTS**

**ORDER**

Before the Court are a handful of similar motions. Defendant Mississippi Department of Mental Health was first to file its motion to dismiss, Docket No. 19, and was soon followed by defendants James M. Hood, Cynthia T. Eubank, Stanley Alexander, Onetta Whitley, Reb McMichael, Luke Savoie, Paul Scott McGinnis, and James G. Chastain. Docket No. 21. Sensing the time was right, defendant Ralph Chapman also moved to dismiss. Docket No. 28. Conserving his resources, defendant Albert Lee Abraham filed a joinder, adopting all the “applicable arguments, authorities and other grounds” raised by Chapman, Docket No. 32. Defendants H. Scott Spragins and Lawrence John Tucker, Jr. have joined in the same. Docket No. 31. After reviewing the briefing and applicable law, the Court is ready to rule.

**I. Factual and Procedural History**

The factual background of this case has been well-documented in a plethora of other proceedings initiated by the plaintiff, so this Court will not reproduce them here. *See generally*

*Smith v. Abraham*, No. 3:14-CV-351-DPJ-FKB (S.D. Miss. July 2, 2014); *Smith v. Chastain*, No. 3:14-CV-334-WHB-RHW (S.D. Miss. March 17, 2015); *Smith v. McMichael*, No. 3:16-CV-212-HTW-LRA (S.D. Miss. May, 13, 2016); *State v. Smith*, No. 2012-0208 (LeFlore Cnty. Cir. Ct.). In short, plaintiff's claims stem from defendants' various roles in his alleged unlawful commitment to the Mississippi State Hospital at Whitfield, which itself arose from plaintiff's alleged part in a foiled murder-for-hire plot.

By way of contrast to the unusual facts in this case, the procedural history of this action is uncomplicated. Plaintiff filed his amended complaint with this Court on February 25, 2016. Docket No. 3. Within a month, each of the above named defendants made or joined in motions to dismiss, and now this Court, like the judges in the previous actions, must dedicate time and resources to the issues presented to it. At heart, defendants challenge this Court's subject-matter jurisdiction.

## **II. Legal Standard**

"[F]ederal courts are courts of limited jurisdiction, having only the authority endowed by the Constitution and that conferred by Congress." *Halmekangas v. State Farm*, 603 F.3d 290, 292 (5th Cir. 2010)(citation and quotation marks omitted). The party asserting that subject matter jurisdiction exists bears the burden of proof by a preponderance of the evidence. *New Orleans & Gulf Coast Ry. Co. v. Barrois*, 533 F.3d 321, 327 (5th Cir. 2008). "If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action." Fed. R. Civ. P. 12(h)(3).

Of specific importance here, the Eleventh Amendment "affirm[s] that the fundamental principle of sovereign immunity limits the grant of judicial authority in Art. III." *Pennhurst State*

*Sch. & Hosp. v. Halderman*, 465 U.S. 89, 98 (1984). Jurisprudential principles of abstention may further limit this Court's exercise of jurisdiction. *See Heck v. Humphrey*, 512 U.S. 477 (1984).

### III. Discussion

Plaintiff, through his attorney, has lodged several opaque claims against a state agency as well as an array of public and private actors, each sued solely in his or her individual capacity. It is helpful to classify defendants in this action into groups: 1) the Attorney General James Hood; 2) state attorneys, who participated in one or more of plaintiff's commitment proceedings, Cynthia Eubank, Stanley Alexander, and Onetta Whitley; 3) the director of the State Hospital, James Chastain; 4) state doctors, who testified in connection with plaintiff's commitment proceedings and/or treated him at the State Hospital, Drs. Reb McMichael, Luke Savoie, and Paul McGinnis; 5) attorneys Lee Abraham, Ralph Chapman, H. Scott Spragins, and Lawrence Tucker, Jr., whom he accuses of extortion and various conspiracies including conspiring to cause his civil commitment; and, of course, 6) the Mississippi Department of Mental Health.

A generous construction<sup>1</sup> of plaintiff's first amended complaint reveals the following counts: i) claims brought under § 1983 and § 1985, levied against every defendant except Lawrence "Lucky" Tucker; ii) violations of the Americans with Disabilities Act ("ADA"), allegedly perpetrated by defendants Hood, Eubank, Chastain, McMichael, Savoie, and the Mississippi Department of Mental Health ("DMH"); iii) a demand for compensatory damages; iv) a demand for attorney's fees and punitive damages; v) state law tort claims against defendants Chastain, McMichael, McGinnis, and DMH; and vi) allegations of extortion and state

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<sup>1</sup> Of particular difficulty to the Court was construing plaintiff's claim for violation of the Rehabilitation Act of 1973. The Court resolved that this alleged violation formed yet another basis for a claim under § 1983 *et seq.*, and had not been severed into an additional independent claim. Even if the other deficiencies, discussed *infra*, were not present, "section 1983 does not provide a remedy for violations of the Rehabilitation Act." *Lollar v. Baker*, 196 F.3d 603, 605, 610 (5th Cir. 1999).

law civil conspiracy brought against defendants Abraham, Chapman, Spragins, and Tucker.  
Docket No. 3.

**A. *Heck v. Humphrey*: an Implicit Ruling on Smith's Confinement**

In *Heck v. Humphrey* the Supreme Court effectively created a new exhaustion requirement for plaintiffs seeking damages under 42 U.S.C. § 1983 that would implicitly invalidate an underlying sentence, stating that:

[I]n order to recover damages for allegedly unconstitutional...imprisonment, or for other harm caused by actions whose unlawfulness would render a...sentence invalid, a §1983 plaintiff must prove that the...sentence has been reversed on direct appeal, expunged by executive order, declared invalid by a state tribunal...or called into question by a federal court's issuance of a writ of habeas corpus.

512 U.S. 477, 486-87 (1994). *Heck* has been applied specifically to the context of civil commitment proceedings, and this Court finds no reason not to do so here. *Huftile v. Fonseca*, 410 F.3d 1136 (9th Cir. 2005). *See also Allen v. Seiler*, No. 4:12-cv-414-Y, 2013 WL 357614, at \*3 n. 14 (N.D. Tex. Jan. 30, 2013)(collecting cases).

Plaintiff is currently committed to the Mississippi State Hospital at Whitfield, Docket No. 3 at 4, and any award of damages under the theories advanced by plaintiff would necessarily include a finding by this Court that he is wrongfully held there. Not only has Smith failed to even attest that his commitment has been overturned, the record available shows that several stages of his underlying criminal case and related commitment proceedings have been reviewed and affirmed by the Mississippi Supreme Court. *Smith v. State*, 2012-M-01054-SCT (Miss. July 19, 2012)(petition for bail denied); *Smith v. State*, 2013-M-00202-SCT (Miss. Mar. 5, 2013)(motion for recusal granted in part and denied in part); *Smith v. State*, 2013-M-01467-SCT (Miss. Sep. 11, 2013)(petition for writ of mandamus denied); *Smith v. Banks*, 134 So.3d 715 (Miss. 2014)(habeas petition denied); *Smith v. Abraham*, 2014-M-01126-SCT (Miss. Sep. 17,

2014)(petition for interlocutory appeal denied); *Smith v. State*, 2014-M-00847-SCT (Miss. Aug. 10, 2016)(writ of prohibition, mandamus, and for other extraordinary relief denied); *Smith v. State*, 2014-M-00848-SCT (Miss. Aug. 10, 2016)(writ of prohibition, mandamus, and for other extraordinary relief denied); *Smith v. Abraham*, 2014-M-00979-SCT (Miss. Aug. 10, 2016)(petition for recusal dismissed). Even to the extent that plaintiff can properly state a claim, he is currently embroiled in commitment proceedings.

Plaintiff has clearly failed to satisfy any of the showings required by *Heck*. Accordingly, his claims for damages pursuant to 42 U.S.C. § 1983 *et seq.* are dismissed as to all defendants.<sup>2</sup>

### **B. Eleventh Amendment Immunity**

To the extent that any of plaintiff's ADA claims against DMH are not *Heck* barred, they are stymied by the Eleventh Amendment. "[T]he Eleventh Amendment bars suits by private citizens against a state in federal court." *K.P. v. LeBlanc*, 627 F.3d 115, 124 (5th Cir. 2010)(citation omitted). "[I]n the absence of consent a [federal court] suit in which the State or one of its agencies or departments is named as the defendant is proscribed by the Eleventh Amendment." *Lewis v. Univ. of Tex. Med. Branch at Galveston*, 665 F.3d 625, 630 (5th Cir. 2011); *see also Dansby-Giles v. Jackson State Univ.*, No. 3:07-CV-452-HTW-LRA, 2010 BL 45994 (S.D. Miss. 2010)(citing *Bd. of Tr. of the Univ. of Ala. v. Garrett*, 531 U.S. 356 (2001)(finding that Title I of the ADA failed to abrogate Eleventh Amendment immunity and authorize private individuals to recover money damages from state defendants)). The Mississippi Department of Mental Health is clearly a state agency for Eleventh Amendment purposes. *See*

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<sup>2</sup> Even if *Heck* did not bar these claims, the prosecuting attorneys enjoy absolute immunity from claims for damages that Smith asserts pursuant to § 1983. *See Burnett v. Hinds County, Miss. ex rel. Bd. of Sup'rs*, No. 3:14cv651CWR-FKB, 2015 WL 5785562, n.3 (S.D. Miss. Sept. 11, 2015)(citations omitted). The doctor defendants also enjoy protections and privileges, because plaintiff is seeking damages from them for their testimony during his commitment proceedings. Given their roles at the state hospital, the doctors had a duty concerning the subject-matter of their testimony, the commitment of a prospective patient, and no evidence has been submitted to show that testimony was malicious or made in bad faith. *Oliver v. Skinner*, 2013 WL 667664 at \*7 (S.D. Miss. Feb. 22, 2013); *Prewitt v. Phillips*, 25 So.3d 397, 399 (Miss. Ct. App. 2009).

*Clark v. Tarrant Cnty.*, 798 F.2d 736, 744-45 (5th Cir. 1986); *see also Scanlon v. Department of Mental Health*, 828 F. Supp. 421, 427 n. 14 (S.D. Miss. 1993)(concluding that the Department of Mental Health is a state agency).

DMH has not consented to suit. *See generally* Docket No. 20. By way of retort, counsel for plaintiff felt his response to DMH's claim of immunity was best constrained to a single sentence and did not require the support of authority. Docket No. 36 at 1. The Court finds his concise rebuttal unpersuasive and lacking merit.

As an end-run around immunity, plaintiff has also levied his ADA claims against five public employees, solely in their individual capacities. These defendants correctly argue, however, that the ADA does not provide for individual capacity liability. *Nottingham v. Richardson*, 499 Fed. Appx, 368, 376-77 n. 6 (5th Cir. 2012). In response, plaintiff's counsel once again displayed his penchant for minimalism, as he failed to even mention the ADA, much less address the substance of defendants' argument. Docket No. 34.

Counsel for plaintiff has failed to satisfy his burden under Fed. R. Civ. P. 12(b)(1), as articulated in *New Orleans*. 533 F.3d 321, 327. Therefore, any remaining claims brought under the ADA, are dismissed as to all defendants for lack of subject-matter jurisdiction.

#### **IV. Conclusion**

Based on the aforementioned, defendants' motions to dismiss are granted. Plaintiff's 42 U.S.C. § 1983 and § 1985 claims as well as his claims brought pursuant to the Americans with Disabilities Act are **DISMISSED WITH PREJUDICE** as to all defendants. The Court declines to exercise supplemental jurisdiction over any state law claims against any of the defendants and therefore, it **DISMISSES THOSE CLAIMS WITHOUT PREJUDICE**. Plaintiff's Motion for

Default Judgment against Defendant Abraham, Docket No. 54, is **DENIED AS MOOT**. A separate Final Judgment shall issue pursuant to Federal Rule of Civil Procedure 58.

**SO ORDERED**, this the 19th day of October, 2016.

s/ Carlton W. Reeves  
UNITED STATES DISTRICT JUDGE