

**UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
MISSISSIPPI**

Thelmon Smith, III v. M.D.O.C. Commissioner, et al.

Smith v. M.D.O.C. Commissioner · No. No. 1:25CV146-JMV · Decided March 30, 2026

OPINION

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF MISSISSIPPI ABERDEEN DIVISION THELMON SMITH, III PLAINTIFF v. No. 1:25CV146-JMV M.D.O.C. COMMISSIONER, ET AL. DEFENDANTS ORDER DENYING PLAINTIFF'S MOTION [18] TO DISMISS STATE CRIMINAL CASE This matter comes before the court the plaintiff's motion [18] for this court to dismiss his pending state criminal case.

The court must dismiss the instant motion, as in the Fifth Circuit, habeas corpus petitions are the “exclusive remedy for a state prisoner who challenges the fact or duration of his confinement and seeks immediate or speedier release, even though such a claim may come within the literal terms of § 1983.” Heck v. Humphrey, 512 U.S. 477, 481, 114 S.Ct. 2364, 129 L.Ed.2d 383 (1994); see also Edge v. Stalder, 240 F.3d 1074 (5th Cir.

2000). In the present case, the plaintiff alleges constitutional injury arising out of his arrest and prosecution, as well as conditions of his confinement. See Docs. 7, 16. He has raised his challenges through a civil suit filed under 42 U.S.C. § 1983, rather than a petition for writ of habeas corpus under 28 U.S.C. § 2241.

As such, the remedy he seeks in the instant motion (dismissal of his criminal charges and immediate release from detention) is not available in the instant case. The motion [18] is therefore DENIED, but without prejudice to the plaintiff's ability to seek such relief through a petition for writ of habeas corpus under 28 U.S.C. § 2241. SO ORDERED, this, the 30th day of March, 2026.
/s/ Jane M. Virden UNITED STATES MAGISTRATE JUDGE