

passed by the Marshall County Commission alleged against Marshall County and Sheriff Sims, in his official capacity.

2. Any and all claims arising out of evidence and/or arguments put forth by Rhonda McCoy in the criminal proceedings against her are due to be dismissed because Plaintiff does not have standing to bring such claims; any such claims are barred by absolute litigation privilege, *see Briscoe v. LaHue*, 460 U.S. 325, 335 (1983); and would be subject to abstention doctrines.

3. Plaintiff's conspiracy claim is due to be dismissed with prejudice pursuant to Fed. R. Civ. Pro. 12(b)(6) pursuant to the intercorporate conspiracy doctrine. *See, e.g., Denny v. City of Albany*, 247 F.3d 1172, 1190 (11th Cir. 2001).

4. Plaintiff cannot state a claim for a violation of either his procedural or substantive due process rights. The passage of the Resolution was a legislative act, and he was not entitled to any additional procedural due process prior to its enactment. *75 Acres, LLC v. Miami-Dade County, Fla.*, 338 F.3d 1288, 1294 (11th Cir. 2003); *see also Kentner v. City of Sanibel*, 750 F.3d 1274, 1280 (11th Cir. 2014) (“Because plaintiffs are challenging the Ordinance on its face rather than contesting a specific zoning or permit decision made under the auspices of the Ordinance, we conclude that they are challenging a legislative act.”). Substantively, the standards governing this claim are set solely by the First Amendment, which cannot be supplemented by the device of substantive due process. *Echols v. Lawton*, 913 F.3d 1313, 1326 (11th Cir. 2019).

5. The Marshall County Commissioners, Maze, and McCoy are entitled to absolute legislative immunity from all claims alleged against them. *See Ellis v. Coffee County Bd. of Registrars*, 981 F.2d 1185, 1192 (11th Cir. 1993).

6. Plaintiff has failed to state a claim against Clint Maze and Rhonda McCoy, or against Sheriff Sims in his individual capacity, because he has failed to plausibly allege any causal connection between their individual actions and the alleged harm. In the alternative, these Defendants are entitled to qualified immunity from all claims alleged against them in their individual capacity.

Respectfully submitted this the 2nd day of September, 2022.

s/Jamie H. Kidd Frawley

JAMIE H. KIDD FRAWLEY (ASB-7661-M76H)

Attorney for Defendants

WEBB, MCNEILL, & WALKER, P.C.

P.O. Box 238

Montgomery, AL 36101-0238

(334) 262-1850 - T

(334) 262-1772 - F

jfrawley@wmwfirm.com

CERTIFICATE OF SERVICE

I hereby certify that on this the 2nd day of September, 2022, I have electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will provide a copy to the following:

Gary Wayne Wright II (*pro se*)
103 Mayberry Lane
Arab, AL 35016

s/Jamie H. Kidd Frawley
OF COUNSEL