

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JOSEPH BENNEFIELD, #235865,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO. 2:06cv307-MEF
)	(WO)
BULLOCK STATE PRISON, et al.,)	
)	
Defendants.)	

ORDER

There being no objections filed to the Recommendation of the Magistrate Judge (Doc. # 17) filed herein on February 4, 2009, said Recommendation is hereby ADOPTED in all material respects,¹ and it is the

ORDER, JUDGMENT and DECREE of the Court that:

- To the extent the plaintiff asserts claims against defendants O’Hara and Morris in their official capacities, the motion for summary judgment (Doc. # 10) is GRANTED and those claims are DISMISSED with prejudice as the defendants are entitled to absolute immunity on these claims.

¹ The one respect in which this Court will not adopt the Recommendation is that the undersigned will conduct a bench trial on the surviving claims rather than referring the case to a Magistrate Judge for an evidentiary hearing. While this Court is mindful that such a referral is legally permissible, it is inclined in this case to promote judicial efficiency by conducting a bench trial.

2. To the extent that O'Hara and Morris also seek summary judgment on the excessive force claims against them in their individual capacities, the motion for summary judgment (Doc. # 10) is DENIED.
3. The plaintiff's excessive force claim against defendants O'Hara and Morris in their individual capacities arising from the February 5, 2006 physical altercation shall be set for a bench trial before the undersigned by a separate scheduling order.

Done this the 12th day of March, 2009.

/s/ Mark E. Fuller
CHIEF UNITED STATES DISTRICT JUDGE