

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

CHARLES GWATHNEY,)	
Reg. No. 26596-051,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACT. NO. 2:09cv479-MEF
)	
WARDEN KELLER, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

On August 31, 2011, the Magistrate Judge filed a Recommendation in this case recommending that the motion for summary judgment filed on behalf of defendants Steve Burns, Tony Normand, Thomas Bell, and Jeffrey Keller be GRANTED and the claims asserted against these defendants be dismissed with prejudice. (Doc. No. 37.) In addition, the Magistrate Judge determined that the plaintiff has demonstrated a genuine issue of material fact sufficient to preclude entry of summary judgment on his excessive force claim against defendant Roger Warren in his individual capacity, although defendant Warren is entitled to summary judgment on the plaintiff’s claim lodged against him in his official capacity. (*Id.*)

On September 16, 2011, both the plaintiff and defendant Warren filed objections to the Recommendation. (Doc. Nos. 42 & 43.) After careful review and consideration of the objections, and upon an independent review of the Recommendation of the Magistrate Judge and file in this case, it is

ORDERED as follows:

1. The plaintiff's objections (Doc. No. 42) be and are hereby OVERRULED;
2. Defendant Warren's objections (Doc. No. 43) be and are hereby OVERRULED;
3. The Recommendation of the Magistrate Judge (Doc. #37) filed on August 31, 2011 is adopted;
4. The motion for summary judgment (Doc. No. 20) filed on behalf of defendants Burns, Normand, Bell, and Keller be GRANTED and the claims asserted against these defendants be DISMISSED with prejudice;
5. The motion for summary judgment filed on behalf of defendant Warren be GRANTED to the extent he has been sued in his official capacity;
6. Defendants Burns, Normand, Bell, and Keller be DISMISSED as parties to this cause of action; and
7. The plaintiff's claim that defendant Warren used excessive force against him be set for a jury trial before the district judge assigned to this case.

DONE this the 21st day of September, 2011.

/s/ Mark E. Fuller

UNITED STATES DISTRICT JUDGE