

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

SHAWN DEWAYNE MCGRAW,)
#169 528,)
)
Plaintiff,)
)
v.)
)
JEFFERY TEMPLE, *et al.*,)
)
Defendants.)

CIVIL ACTION NO. 2:11-cv-1087-WHA

ORDER

The Magistrate Judge entered a Recommendation (Doc. 44) in this case to which no timely objections have been filed. After a review of the Recommendation, and after an independent review of the entire record, the court finds that the Recommendation should be adopted. Accordingly, it is

ORDERED that the Recommendation of the Magistrate Judge is hereby ADOPTED. It is further ORDERED as follows:

1. Plaintiff’s request for preliminary and permanent injunctive relief (Doc. 17) is DISMISSED as moot;
2. Plaintiff’s request that criminal charges be filed against Defendant Temple is DISMISSED under 28 U.S.C. § 1915(e)(2)(B)(i);
3. Plaintiff’s challenge to the September 19, 2011, disciplinary proceedings is DISMISSED without prejudice in accordance with the directives of 28 U.S.C. § 1915(e)(2)(B)(ii);

4. Defendants' motion for summary judgment (Doc. 23) with respect to Plaintiff's claim for monetary damages lodged against them in their official capacities is GRANTED as Defendants are entitled to absolute immunity from these claims;

5. The motion for summary judgment filed on behalf of Defendants Ellington, Loman, and Napier (Doc. 23) is GRANTED;

6. The motion for summary judgment filed on behalf of Defendant Temple (Doc. 23) regarding Plaintiff's September 13, 2011, excessive force claim lodged against this defendant in all aspects of his individual capacity is DENIED;

7. The motion for summary judgment filed on behalf of Defendant Brown (Doc. 23) regarding Plaintiff's claim that this defendant failed to protect him from Officer Temple's use of excessive force on September 13, 2011, is DENIED in all aspects of his individual capacity;

8. This case shall be set for a set for an evidentiary hearing on Plaintiff's excessive force claim against Defendant Temple and his failure to protect claim against Defendant Brown; and

9. This case is referred back to the Magistrate Judge for additional proceedings.

Done this 3rd day of December, 2014.

/s/ W. Harold Albritton

SENIOR UNITED STATES DISTRICT JUDGE