

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

RICHARD HOLLINGSWORTH, #276 260,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	CASE NO. 2:12-cv-472-WHA
	)	
KIM THOMAS, et al.,	)	(WO)
	)	
Defendants.	)	

**ORDER**

This case is before the court on the Recommendation of the Magistrate Judge (Doc. #40), entered on April 13, 2015. There being no timely objection filed to the Recommendation, and after a review of the file, the Recommendation is ADOPTED, and it is hereby ORDERED as follows:

1. Plaintiff’s request for injunctive relief (Doc. #1) is DENIED as moot.
2. The Motion to Dismiss filed by Defendant Baker (Doc. #19) is GRANTED to the extent Defendant Baker seeks dismissal of this case due to Plaintiff’s failure to properly exhaust an administrative remedy prior to filing this case.
3. This case is DISMISSED with prejudice against Defendant Baker under 42 U.S.C. § 1997e(a) for Plaintiff’s failure to exhaust an administrative remedy.
4. Defendant Thomas’s Motion for Summary Judgment (Doc. #28) is GRANTED.
5. Defendant Harris’s Motion for Summary Judgment (Doc. #28) regarding the claim for monetary damages lodged against him in his official capacity is GRANTED as this Defendant is entitled to absolute immunity from this claim.

6. Defendant Harris's Motion for Summary Judgment (Doc. #28) regarding Plaintiff's Eighth Amendment excessive force claim lodged against him in all aspects of his individual capacity is DENIED.

7. This case will be set for a jury trial in due course on Plaintiff's excessive force claim against Defendant Harris in his individual capacity.

8. This case is referred back to the Magistrate Judge for the purpose of holding a pretrial hearing at an early date to discuss management of the case and the possibility of consenting to the jury trial being held before the Magistrate Judge.

DONE this 18th day of May, 2015.

/s/ W. Harold Albritton  
W. HAROLD ALBRITTON  
SENIOR UNITED STATES DISTRICT JUDGE