

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

TIMOTHY PRICE, AIS # 172825,)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.: 2:12cv567-WHA
)	[WO]
SGT. CEDRIC SMITH,)	
)	
Defendant.)	

ORDER

On March 17, 2015, the court set this matter for an evidentiary hearing because the court concluded that there are genuine disputes of fact about the plaintiff’s claim of excessive force. *See* Doc. # 32. On March 27, 2015, the defendant filed a motion to stay the evidentiary hearing asserting that because the plaintiff had failed to respond to the defendant’s special report with an affidavit or other evidence, he is entitled to summary judgment based solely on his special report. *See* Doc. # 34.

In his verified complaint, Plaintiff Price alleges that Defendant Smith physically assaulted Price while incarcerated at the Bullock Correctional Facility, in Union Springs, Alabama.¹ In his complaint, Price asserts that defendant “Smith used profane, abusive and threatening language in communication with Plaintiff Price and assaulted him on April 17, 2011, and refused to allow him to see a nurse to have a body chart perform (sic) and told Plaintiff Price to sign up for a sick call. Plaintiff (sic) Price signed up for sick call and saw the doctor for an injury to his ear that was caused by Defendant C. Smith.” (Doc. # 1, Compl. at 3).

The law is clear that the court must consider the facts contained in Price’s verified

¹ Price is currently incarcerated at Donaldson Correctional Facility.

