

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

PETRO DERAN PUGH,	)	
AIS 192319,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CASE NO. 2:21-CV-260-RAH-CWB
	)	
BRANDON FLOYD, CO, et al.,	)	
	)	
Defendants.	)	

**ORDER**

On June 11, 2024, the Magistrate Judge recommended that summary judgment be granted in favor of the Defendants as to the Plaintiff’s claims against the Defendants in their official capacities, and denied against the Defendants in their individual capacities. (Doc. 57.) On June 25, 2024, the Defendants filed *Objection in Part to the Recommendation of the Magistrate Judge* (doc. 58), in which they objected to two of the Magistrate Judge’s factual findings—but apparently *not* to the Magistrate Judge’s recommendation that summary judgment be denied as to the Plaintiff’s individual capacity claims.

The Defendants’ first objection is to the finding that inmate Miller had been observed carrying an ice pick or knife in the two weeks preceding the attack on the Plaintiff. This objection is due to be overruled because the verified Complaint as well as inmate affidavits support this factual finding. In other words, there is a genuine dispute of fact on this issue, and summary judgment is therefore inappropriate.

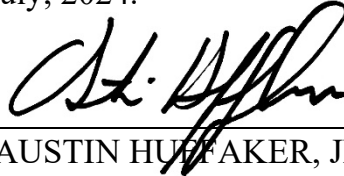
The Defendants’ second objection is to the Magistrate Judge’s finding that (1) inmate Miller was observed carrying a weapon “openly and consistently” and (2) “multiple inmates” reported Miller’s behavior and possession of the weapon to the Defendants. Once again, the verified Complaint and inmate affidavits provide a record supporting the Magistrate Judge’s finding. As such, the Defendants’ objection is due to be overruled.

Upon an independent review of the record, it is

**ORDERED** as follows:

1. The Objections are **OVERRULED**;
2. The Recommendation is **ADOPTED**;
3. The Motion for Summary Judgment (doc. 21) is **GRANTED** in favor of the Defendants on Pugh's claims for monetary damages against them in their official capacities;
4. The Motion for Summary Judgment (doc. 21) is **DENIED** as to the defendants on Pugh's claims against them in their individual capacities; and
5. This action shall be **SET** for jury trial on Plaintiff's claim that the Defendants acted with deliberate indifference to his safety by failing to protect him from an attack in violation of the Eighth Amendment as against the Defendants in their individual capacities.

**DONE**, on this the 9th day of July, 2024.



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R. AUSTIN HUFFAKER, JR.  
UNITED STATES DISTRICT JUDGE