

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

CHRISTOPHER DALTON, #264073,)	
)	
Plaintiff,)	
v.)	CASE NO. 3:10-cv-843-MEF
)	WO
CHAD STANCIL, <i>et al.</i> ,)	
)	
Defendants.)	

ORDER

This case involves a police shooting. While handcuffed, Plaintiff Christopher Dalton (“Plaintiff”) pulled a handgun from his pocket and fired at least two times at law enforcement officers, hitting one officer. One officer returned fire, wounding Plaintiff. It is against this factual backdrop that Plaintiff brings an action under 42 U.S.C. § 1983 against the officers, claiming that they violated his rights under the Fourth and Eighth Amendments to the United States Constitution because they used excessive force against him and because they subjected him to an unlawful arrest. The officers argued that they are entitled to qualified immunity from Plaintiff’s claims. On February 21, 2014, the Magistrate Judge entered a Report and Recommendation, finding that the officers were entitled to qualified immunity and that Plaintiff’s claims should be dismissed on summary judgment.

On March 25, 2014, Plaintiff filed objections to the Magistrate Judge’s Report and Recommendation. Out of Plaintiff’s many objections, the Court feels it necessary to specifically address Plaintiff’s particular objection that a genuine dispute of material fact

exists with respect to the amount of times that he shot at the officers. Plaintiff claims he shot at the officers only twice, while one of the officers testified that Plaintiff shot at least four times. Plaintiff claims that this dispute precludes summary judgment. Plaintiff is sorely mistaken. Indeed, through this objection, Plaintiff **admits** that he opened fired on the officers at least two times. This is certainly sufficient in the Court's eyes to justify the officers returning fire on Plaintiff.

Based on the foregoing, and after an independent review of the file, it is the ORDER, JUDGMENT and DECREE of the court that:

1. The plaintiff's objections (Doc. #110) to the Recommendation of the Magistrate Judge filed on March 25, 2014 are overruled;
2. The Recommendation of the Magistrate Judge (Doc. #107) entered on February 21, 2014 is adopted;
3. That the defendants' motions for summary judgment are GRANTED and that this case is DISMISSED with prejudice.

DONE this the 31st day of March, 2014.

/s/ Mark E. Fuller
UNITED STATES DISTRICT JUDGE