

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

EDWARD J. TERRY, SR., <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	CASE NO. 3:14-CV-953-WKW
	)	[WO]
RUSSELL COUNTY BOARD OF	)	
EDUCATION, <i>et al.</i> ,	)	
	)	
Defendants.	)	

**ORDER**

On September 28, 2015, the Magistrate Judge filed a Recommendation (Doc. # 92), and on November 2, 2015, the Magistrate Judge filed a Supplemental Recommendation in response to the objection filed by Defendants Heath Taylor and Bob Atkin (incorrectly designated in the governing complaint as “Adkins”). On November 16, 2015, Plaintiffs filed an Objection to the Magistrate Judge’s Recommendation and Supplemental Recommendation. (Doc. # 98.) The court has conducted an independent and *de novo* review of those portions of the Recommendations to which Plaintiffs object. *See* 28 U.S.C. § 636(b). Plaintiffs present no arguments that cure the deficiencies of fact and law that the Magistrate Judge elaborated upon in the Recommendation, as later supplemented.

Accordingly, it is ORDERED as follows:

1. Plaintiffs' Objection (Doc. # 98) is OVERRULED.
2. The Recommendation (Doc. # 92) and the Supplemental Recommendation (Doc. # 97) are ADOPTED.
3. Defendants' Objection (Doc. # 96) is moot.
4. Defendant Ken Davis's Motion to Dismiss First Amended Complaint (Doc. # 60) is GRANTED and all claims against Ken Davis are DISMISSED;
5. Defendant Russell County Department of Human Resources' Motion to Dismiss Amended Complaint (Doc. # 63) is GRANTED and all claims against Russell County Department of Human Resources are DISMISSED;
6. Defendant Lizzie Thomas's Motion to Dismiss Amended Complaint (Doc. # 66) is GRANTED and all claims against Lizzie Thomas are DISMISSED;
7. The Motion to Dismiss Plaintiffs' Amended Complaint (Doc. # 68), filed by Defendants Heath Taylor and Bob Atkin, is GRANTED and all claims against Defendants Heath Taylor and Bob Atkin are DISMISSED.
8. The Amended Motion to Dismiss (Doc. # 90) is DENIED as to the claims under Count One (excessive force/corporal punishment), Count Five (failure to protect), and Count Twelve (denial of procedural due process) against Defendant Russell County Board of Education and against Defendants Keith Mitchell, Kenneth Barnes, Jerry Wayne Carpenter, Dillie Elliot, Larry Laney,

Eugenia Upshaw, Joseph Williams, Tommy Pugh, Shawn Taylor, and Mike Green in their individual capacities (Doc. # 90).

9. Defendant Shawn Taylor's Amended Motion to Dismiss (Doc. # 90) Counts Two and Three (Assault and Battery) is DENIED.

10. The Amended Motion to Dismiss (Doc. # 90) is otherwise GRANTED as to the claims against Defendant Russell County Board of Education and the remaining individual-capacity claims against Defendants Keith Mitchell, Kenneth Barnes, Jerry Wayne Carpenter, Dillie Elliot, Larry Laney, Eugenia Upshaw, Joseph Williams, Tommy Pugh, Charles Johnson, Shawn Taylor, Mike Green, Vantreise Davis, Barry Kirby, Vivian Relf, Ricky Martin, and Jacqueline Grant.

11. The Amended Motion to Dismiss (Doc. # 90) the official-capacity claims against Defendants Keith Mitchell, Kenneth Barnes, Jerry Wayne Carpenter, Dillie Elliot, Larry Laney, Eugenia Upshaw, Joseph Williams, Tommy Pugh, Shawn Taylor, and Mike Green is GRANTED.

12. Plaintiffs Edward J. Terry, Sr., and Dymphia M. Terry are DISMISSED as Plaintiffs in this action.

13. Defendants Ken Davis, Russell County Department of Human Resources, Lizzie Thomas, Vivian Relf, Ricky Martin, Jacqueline Grant, Heath Taylor, and Bob Atkin are DISMISSED as Defendants in this action.

14. Defendants' Motion to Dismiss (Doc. # 70) is DENIED as moot.

15. This action is REFERRED back to the Magistrate Judge on Plaintiff Edward J. Terry, Jr.'s remaining claims against the Russell County Board of Education and the remaining individual-capacity claims against the Russell County Board members (*i.e.*, Keith Mitchell, Kenneth Barnes, Jerry Wayne Carpenter, Dillie Elliott, Larry Laney, Eugenia Upshaw, Joseph Williams, Tommy Pugh, and Charles Johnson), Shawn Taylor, Mike Green, Vantreise Davis, and Barry Kirby.

DONE this 9th day of December, 2015.

/s/ W. Keith Watkins

CHIEF UNITED STATES DISTRICT JUDGE