

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

ANTWAIN VONTELL MAYE,)	
)	
Plaintiff,)	
)	
v.)	Case No. 2:12-cv-02478-RBP-TMP
)	
COMMISSIONER KIM THOMAS,)	
<i>et al.</i> ,)	
)	
Defendants.)	

ORDER

The magistrate judge filed a report and recommendation on May 29, 2014, recommending that the plaintiff’s claims against Defendants Thomas, Price, and Hicks be dismissed for the plaintiff’s failure to state a claim upon which relief may be granted pursuant to 28 U.S.C. § 1915A(b)(1) and/or (2). (Doc. 10). The magistrate judge further recommended that the plaintiff’s Eighth Amendment excessive force claim against Defendant Gadson and the plaintiff’s supervisory liability claim against Defendant Gary be referred to the magistrate judge for further proceedings. (*Id.*) The plaintiff filed objections on June 6, 2014.¹ (Doc. 11).

¹ The plaintiff mistakenly filed his objections in *Maye v. Thomas*, Case No. 2:12-cv-02712-RDP-TMP, which was dismissed on December 6, 2013. (Doc. 21). On July 7, 2014, District Judge Proctor directed the Clerk to file the plaintiff’s objections in the present case. (Doc. 22).

The plaintiff states in his objections that he “agree[s] in part” that Defendants Thomas, Price, Hicks, and Warden Hetzel “are not fully responsible” for Defendant Gadson’s actions.² (Doc. 11 at 2). However, the plaintiff further states that “supervisors train their subordinates and they were notified about this incident and did nothing!” (*Id.*) The plaintiff named Thomas, Price, and Hicks as defendants in his complaint but failed to allege any claims against them in the body of the complaint. Therefore, these defendants are due to be dismissed.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the objections thereto, the Court is of the opinion that the magistrate judge's report is due to be and is hereby ADOPTED and the magistrate judge's recommendation is ACCEPTED. It is therefore ORDERED, ADJUDGED, and DECREED that all of the plaintiff's claims in this action except his Eighth Amendment excessive force claim against Defendant Gadson and his supervisory liability claim against Defendant Gary are DISMISSED pursuant to 28 U.S.C. § 1915A(b). It is further ORDERED that the plaintiff’s Eighth Amendment excessive force claim against Defendant Gadson and his supervisory liability claim against Defendant Gary are REFERRED to the magistrate judge for further proceedings.

² Warden Hetzel is not a defendant in this action.

DATED this 13th day of August, 2014.

A handwritten signature in black ink, reading "Robert B. Propst". The signature is written in a cursive style with a large initial "R" and "P".

ROBERT B. PROPST
SENIOR UNITED STATES DISTRICT JUDGE