

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

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| JAMES ALLEN FORESTER, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Case No. 4:12-cv-04094-VEH-JEO |
| |) | |
| SERGEANT BRUCE T. HODGES, et al., |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM OF OPINION AND ORDER

The magistrate judge filed a report and recommendation on July 7, 2014, recommending that:

- (1) Defendants’ motion for summary judgment on plaintiff’s claims against them in their official capacities for monetary damages be **GRANTED** and the claims be **DISMISSED** with prejudice;
- (2) Defendants Guthery and Dixon’s motion for summary judgment on plaintiff’s Eighth Amendment excessive force claims be **GRANTED** and the claims be **DISMISSED** with prejudice;
- (3) Defendants Hodge’s motion for summary judgment on plaintiff’s Eighth Amendment excessive force claim against Defendant Hodge be **DENIED**;
- (4) Defendant Hodge’s motion for summary judgment as to plaintiff’s Eighth Amendment excessive force claim on the basis of qualified immunity be **DENIED**;
- (5) Defendants Guthery and Dixon’s motion for summary judgment on

plaintiff's Eighth Amendment failure to protect claims be **DENIED**;

(6) Defendants Guthery and Dixon's motion for summary judgment as to plaintiff's Eighth Amendment failure to protect claims on the basis of qualified immunity be **DENIED**; and

(7) Defendants' motion for summary judgment on plaintiff's Fourteenth Amendment due process claims be **GRANTED** and the claims be **DISMISSED** with prejudice.

(Doc. 33 at 19-20) (emphasis added). Objections to the recommendation were due on July 21, 2014. None have been filed.

Having carefully reviewed and considered de novo all the materials in the court file, including the report and recommendation, the Court is of the opinion that the magistrate judge's report is due to be and is hereby **ADOPTED** and his recommendation is **ACCEPTED**. The Court **EXPRESSLY FINDS** that there are no genuine issues of material fact and that judgment as a matter of law is appropriate as to all claims, issues, and parties as to which the magistrate recommended granting summary judgment. Accordingly, defendants' various motions for summary judgment are due to be, and hereby are, **GRANTED** as set out above, and the above-identified claims are **DISMISSED with prejudice**. In all other respects, the motions are **DENIED**.

By separate order, this case will be set for a final pretrial conference.

DONE and **ORDERED** this 7th day of August, 2014.

A handwritten signature in black ink, appearing to read "V. Emerson Hopkins", written in a cursive style.

VIRGINIA EMERSON HOPKINS

United States District Judge