

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

| | | |
|-------------------------|---|---------------------------------|
| BRENT JACOBY, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Case No.: 4:16-cv-00728-MHH-TMP |
| |) | |
| CARTER, Warden, et al., |) | |
| |) | |
| Defendants. |) | |

ORDER

The magistrate judge entered a report on May 1, 2017 in which he recommended that the Court:

- Dismiss all claims against the defendants in their official capacities;
- Dismiss as moot plaintiff Brent Jacoby’s claims for injunctive relief;
- Grant the defendants’ motion for summary judgment as to defendants Carter, Estes, Dunn, Truitt, Jones, Malone, and Guthery;
- Deny the defendants’ motion for summary judgment as to defendants Specks, Graham, Gaines, and Tarrant Payne on Mr. Jacoby’s failure to protect and prison condition claims;
- Grant the defendants’ motion for summary judgment as to defendants Coogan and Richard Payne; and

- Grant the defendants’ motion for summary judgment as to defendants Wilson and Hamby.

(Doc. 93, pp. 60-61). The magistrate judge advised the parties of their right to file specific written objections within fourteen days. (Doc. 91, pp. 61-62). To date, no party has filed objections to the report and recommendation.

A district court “may accept, reject, or modify, in whole or part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). A district court reviews legal conclusions in a report de novo and reviews for plain error factual findings to which no objection is made. *Garvey v. Vaughn*, 993 F.2d 776, 779 n.9 (11th Cir. 1993); *see also LoConte v. Dugger*, 847 F.2d 745, 749 (11th Cir. 1988); *Macort v. Prem, Inc.*, 208 Fed. Appx. 781, 784 (11th Cir. 2006).¹

Having reviewed the record and the report and recommendation, the Court finds no misstatements of law in the report and no plain error in the magistrate judge’s description of the relevant facts. Therefore, the Court adopts the magistrate judge’s report and accepts his recommendation.

Accordingly, the Court:

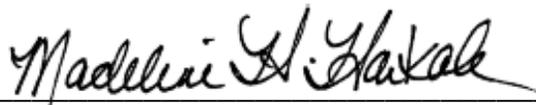
1. Dismisses Mr. Jacoby’s claims against the defendants in their official capacities;

¹ When a party objects to a report in which a magistrate judge recommends dismissal of a claim, a district court must “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. §§ 636(b)(1)(B)-(C).

2. Dismisses as moot Mr. Jacoby's claims for injunctive relief;
3. Grants the prison defendants' motion for summary judgment (Doc. 61) as to defendants Carter, Estes, Dunn, Truitt, Jones, Malone, and Guthery;
4. Denies the prison defendants' motion for summary judgment (Doc. 61) as to defendants Specks, Graham, Gaines, and Tarrant Payne on Mr. Jacoby's failure to protect and prison conditions claims;
5. Grants defendants Coogan and Richard Payne's motion for summary judgment (Doc. 62); and
6. Grants defendants Wilson and Hamby's motion for summary judgment (Doc. 65).

The Court will enter a separate order to resolve Mr. Jacoby's pending motion to appoint counsel.

DONE and **ORDERED** this July 11, 2017.



MADELINE HUGHES HAIKALA
UNITED STATES DISTRICT JUDGE