

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

LONNIE O'NEAL BAILEY,)

Plaintiff)

vs.)

5:11-cv-03797-JHH-HGD

OFFICER ANTHONY JOHNSON,)

Defendant.)

MEMORANDUM OF DECISION

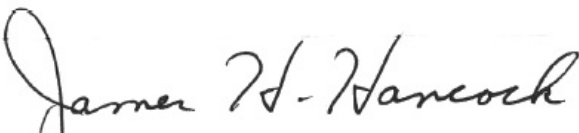
The magistrate judge filed a Report and Recommendation (Doc. # 30) on January 31, 2014, recommending that summary judgment be granted and this action be dismissed with prejudice.¹ No objections have been filed by any party.

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 Defendant

¹ The Report and Recommendation also found that Johnson failed to exhaust his administrative remedies as required by 42 U.S.C. § 1997e(a). That failure would result in a dismissal without prejudice. However, because summary judgment is due to be granted in favor of Officer Anthony Johnson on the merits, the court considers this finding as an alternative grounds for dismissal only.

Johnson's Motion (Doc. # 23) for Summary Judgment² is due to be granted. The court also **EXPRESSLY FINDS** that Plaintiff failed to exhaust the grievance procedure provided by the Lawrence County Jail as required by 42 U.S.C. § 1997e. A Final Judgment will be entered dismissing this action with prejudice.

DONE this the 19th day of March, 2014.



SENIOR UNITED STATES DISTRICT JUDGE

² Defendant requested that the court treat his Special Report (Doc. # 23) as a Motion for Summary Judgment.