

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

COREY HENLEY,)
)
Plaintiff,)
)
v.) 5:11-cv-03922-JHH-SGC
)
BYERS, et. al.,)
)
Defendants.)

ORDER

By a report and recommendation entered on July 11, 2014, the magistrate judge recommended as follows:

1. The motion for summary judgment (Doc. 20) as to Defendant Gray is due to be **GRANTED**, and the claims against Defendant Gray are due to be **DISMISSED WITH PREJUDICE**;
2. The Alabama Department of Corrections is due to be **DISMISSED** as a defendant;
3. The motions for summary judgment (Docs. 20 and 33) as to Plaintiff's claims against Defendants Byers, MacMillan, and Bailey in their official capacities for monetary relief are due to be **GRANTED**, and such claims are due to be **DISMISSED WITH PREJUDICE**;
4. The motions for summary judgment (Docs. 20 and 33) as to Plaintiff's Eighth Amendment failure-to-protect claims against Defendants Byers, MacMillan, and Bailey in their individual capacities are due to be **DENIED**, as is their attempt to invoke qualified immunity;

5. To the extent Plaintiff was attempting to raise a claim of deliberate indifference to serious medical needs, such claim is **DISMISSED**.

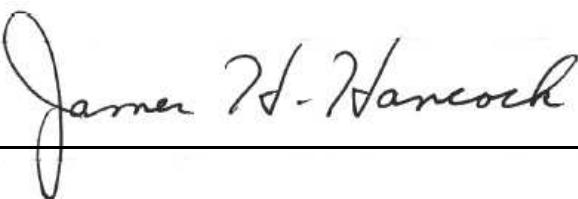
(Doc. 36 at 17-18). The parties were allowed fourteen (14) days to file written objections to the magistrate judge's report and recommendation. (*Id.*). No objections have been filed.

Having carefully reviewed and considered *de novo* all the materials in the court file, the court is of the opinion the magistrate judge's report is due to be and is hereby **ADOPTED** and the magistrate judge's recommendation is **ACCEPTED**. Regarding all claims, issues, and parties as to which the magistrate judge recommended granting summary judgment, the court **EXPRESSLY FINDS** there are no genuine issues of material fact, and judgment is appropriate as a matter of law.

The motions for summary judgment are **GRANTED** as to Plaintiff's claims against Defendant Gray and the Alabama Department of Corrections, and such claims and defendants are **DISMISSED WITH PREJUDICE**. Plaintiff's claims against Defendants Byers, MacMillan, and Bailey in their official capacities for monetary relief are **GRANTED**, and such claims are **DISMISSED WITH PREJUDICE**. The motions for summary judgment as to Plaintiff's Eighth Amendment failure-to-protect claims against Defendants Byers, MacMillan, and Baily in their individual capacities are **DENIED**. To the extent Plaintiff was attempting to raise a claim of deliberate indifference to serious medical needs, such claim is **DISMISSED**.

Remaining in this case are the individual capacity claims for failure to protect asserted against Defendants Byers, MacMillan, and Bailey. Defendants Byers, MacMillan, and Bailey are **ORDERED** to file an answer to Plaintiff's claims within twenty (20) days of the entry date of this order.

DONE this 18th day of August, 2014.



James H. Hancock
SENIOR UNITED STATES DISTRICT JUDGE