

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION

| | | |
|------------------------|---|--------------------------------|
| CAROL BURNETT PICKETT, |) | |
| |) | |
| Plaintiff |) | |
| |) | |
| vs. |) | Case No. 5:12-cv-00919-SLB-HGD |
| |) | |
| DOLLAR GENERAL STORES, |) | |
| et al., |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM OF OPINION

The magistrate judge filed a report on December 26, 2012, recommending that the federal claims in this action be dismissed without prejudice for failing to state a claim upon which relief can be granted, pursuant to 28 U.S.C. § 1915A(b)(1). (Doc. 17). The magistrate judge further recommended that any state law claims asserted in the complaint be dismissed without prejudice pursuant to 28 U.S.C. § 1367(c)(3).

The plaintiff filed objections to the report and recommendation on January 10, 2013. (Doc. 18). In her objections, the plaintiff continues to contend that she was wrongfully arrested on charges of shoplifting. In support of this contention,

she repeats the allegation that the store manager presented two differing statements regarding the list of allegedly stolen items and says the manager lied about observing her shoplifting on the store camera. Additionally, although it is worded in extremely vague fashion, the plaintiff appears to allege that the police officer wrongfully arrested her in light of his inability to identify illegal activity from the security camera recording. However, the plaintiff's objections are insufficient to overcome the governmental defendants' qualified immunity and fail to show that the individual private defendant conspired with state actors to violate her rights.¹ Without more, the plaintiff has failed to state a valid claim under 42 U.S.C. § 1983.

Therefore, having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation and the plaintiff's objections thereto, the court is of the opinion that the magistrate judge's report is due to be and hereby is **ADOPTED** and the recommendation is **ACCEPTED**. Accordingly, the federal claims in this action are due to be dismissed without prejudice, pursuant to 28 U.S.C. § 1915A(b)(1), for failing to

¹ As long as his belief is reasonable, a police officer does not have to ultimately be correct in his belief that he has probable cause to make an arrest. *Rodriguez v. Farrell*, 280 F.3d 1341, 1347 (11th Cir. 2002). In this instance, based upon the totality of the allegations before the court, there is no showing that the arresting officer lacked actual or arguable probable cause to make the arrest and no reason to vitiate his qualified immunity.

state a claim upon which relief may be granted. Any state law claims asserted in the complaint are due to be dismissed without prejudice pursuant to 28 U.S.C. § 1367(c)(3). A Final Judgment will be entered.

DONE, this 4th day of February, 2013.


SHARON LOVELACE BLACKBURN
CHIEF UNITED STATES DISTRICT JUDGE