

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

ROBERT LEE JACOBS,)	
)	
Plaintiff,)	
)	Case No. 5:16-cv-00629-RDP-JEO
v.)	
)	
HUNTSVILLE POLICE DEPARTMENT,)	
et al.,)	
)	
Defendants.)	

ORDER

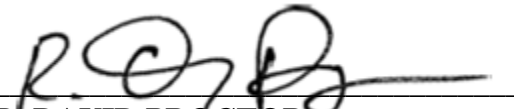
The Magistrate Judge entered a report on January 27, 2017, recommending all of Plaintiff’s claims, with the exception of his Fourth Amendment excessive force claim against defendant Curtis, be dismissed without prejudice pursuant to 28 U.S.C. § 1915A(b)(1) for failing to state a claim upon which relief can be granted. (Doc. 12). The Magistrate Judge further recommended Plaintiff’s Fourth Amendment excessive force claim against defendant Curtis be referred to the Magistrate Judge for further proceedings. (*Id.* at 11). The Magistrate Judge advised Plaintiff of his right to file specific written objections within fourteen (14) days. *Id.* at 11-12).

On February 10, 2017, Plaintiff moved for a thirty (30) day extension of time “to allow [his] criminal charge to be judged, and to use [that] judgment as evidence to present to the courts.” (Doc. 13). In his report, the Magistrate Judge concluded that Plaintiff’s malicious prosecution claim against Investigator K. Browning is due to be dismissed because Plaintiff has not shown the criminal prosecution instituted against him for robbery on March 18, 2016, has been terminated in his favor. (Doc. 12 at 10). Therefore, it appears Plaintiff seeks additional time for the adjudication of the charge against him in order to properly support his claim for

malicious prosecution. However, the Magistrate Judge recommended dismissal of this claim without prejudice. (Doc. 12 at 11). As such, Plaintiff may present his malicious prosecution claim again, provided it is timely and legally sufficient. Upon due consideration, Plaintiff's motion for an extension of time, (doc. 13), is **DENIED**.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, the Magistrate Judge's report is hereby **ADOPTED** and the recommendation is **ACCEPTED**. The court **ORDERS** that Plaintiff's claims, with the exception of his Fourth Amendment excessive force claim against defendant Curtis, are **DISMISSED WITHOUT PREJUDICE** pursuant to 28 U.S.C. § 1915A(b). The court further **ORDERS** that Plaintiff's Fourth Amendment excessive force claim against defendant Curtis is **REFERRED** to the Magistrate Judge for further proceedings.

DONE and **ORDERED** this February 27, 2017.



R. DAVID PROCTOR
UNITED STATES DISTRICT JUDGE