

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

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|-----------------------------|---|--------------------------------|
| HUGO LOPEZ DELACRUZ, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | Case No. 7:14-cv-02200-KOB-JEO |
| |) | |
| STEPHEN C. WALLACE, et al., |) | |
| |) | |
| Defendants. |) | |

MEMORANDUM OF OPINION

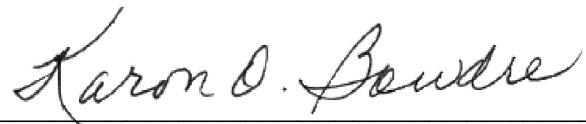
The magistrate judge filed a report and recommendation on July 6, 2015, recommending that this action filed pursuant to 42 U.S.C. § 1983 be dismissed under 28 U.S.C. § 1915A(b) for failing to state a claim upon which relief may be granted. (Doc. 8). No party has filed any objections.

Having carefully reviewed and considered *de novo* all the materials in the court file, including the report and recommendation, the court ADOPTS the magistrate judge’s report and ACCEPTS his recommendation. The Plaintiff claims that the affidavits attested to by Defendant Cotton to obtain the warrants were invalid because Cotton was not present at the scene of the shooting. However, the law does not require that Cotton be present at the scene of the shooting or have personal knowledge of the facts for his affidavits in support of the warrants to be valid. *See United States v. Flynn*, 664 F.2d 1296, 1303 (11th Cir. 1982) (citing *United States v. Hayles*, 471 F.2d 788 (5th Cir.

1973)). As explained in the report and recommendation, the Plaintiff does not allege that Cotton signed the affidavits for the warrants knowing they were false or with reckless disregard for whether they were false. Accordingly, the court finds that the complaint is due to be dismissed pursuant to 28 U.S.C. § 1915A(b) for failing to state a claim upon which relief may be granted.

The court will enter a Final Judgment by separate Order.

DONE and ORDERED this 26th day of August, 2015.

A handwritten signature in cursive script that reads "Karon O. Bowdre". The signature is written in black ink and is positioned above a horizontal line.

KARON OWEN BOWDRE
CHIEF UNITED STATES DISTRICT JUDGE