

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

CHARLES W. CUNNINGHAM, JR.	:	
(AIS #193686)	:	
Plaintiff,	:	
vs.	:	CIVIL ACTION 10-00114-CG-M
GRANTT CULLIVER, <u>et al.</u>,	:	
Defendants.	:	

ORDER

After due and proper consideration of all portions of this file deemed relevant to the issues raised, and a de novo determination of those portions of the Recommendation to which objection is made, the Recommendation of the Magistrate Judge made under 28 U.S.C. § 636(b)(1)(B) is **ADOPTED** as the opinion of this Court, as follows:

1) The motions for summary judgment of Defendants Culliver, Bishop, Watson, Sizemore, Broadhead, Burroughs, Portis, and Nurse Sara Carroll are **GRANTED** as to all claims asserted against them by Plaintiff in the Complaint;

2) The motions for summary judgment of Defendants Jenkins, Ashworth, McCrory, Stanton, Brazile, Branch, Brandon Carroll, and Corbitt are **DENIED** as to Plaintiff's Eighth Amendment excessive force claim based on the use of the stun shield during the cell extraction;

3) The motions for summary judgment of Defendants Jenkins, Ashworth, McCrory, Stanton, Brazile, Branch, Brandon Carroll, and Corbitt are **DENIED** as

to Plaintiff's state law assault and battery claims arising out of Defendants' use of physical force and the use of the stun shield during the cell extraction; and

4) With the exception of the claims specified in paragraphs 2 and 3 above, the motions for summary judgment of Defendants Jenkins, Ashworth, McCrory, Stanton, Brazile, Branch, Brandon Carroll, and Corbitt are **GRANTED** as to all remaining claims asserted against them by Plaintiff in the Complaint.

DONE and ORDERED this 6th day of December, 2011.

/s/ Callie V. S. Granade
UNITED STATES DISTRICT JUDGE