

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF FLORIDA
GAINESVILLE DIVISION**

MELVIN PEREZ,

Plaintiff,

v.

Case No. 1:11cv180-SPM/GRJ

MICHAEL G. SIMPSON, et al.,

Defendants.

_____ /

ORDER

This cause comes before the Court for consideration of the Magistrate Judge's Report and Recommendation (doc. 44). Plaintiff filed objections (doc. 45).

Upon consideration, and despite Plaintiff's objections, I have determined that the Report and Recommendation is correct and should be adopted. Plaintiff's objections demonstrate his misinterpretation of the law on various issues.

However, the applicable law and how it applies to each issue is correctly and adequately discussed in the Report and Recommendation.

Accordingly, it is hereby ORDERED and ADJUDGED:

1. The Magistrate Judge's Report and Recommendation (doc. 44) is **adopted** and incorporated by reference into this order.
2. Defendants' Motion to Dismiss (doc. 34) is **granted in part** to the

extent that:

- a. Plaintiff's claims against Defendants in their official capacities be **dismissed**;
 - b. Plaintiff's claims for compensatory and punitive damages against Defendants in their individual capacities be **dismissed**; and
 - c. Plaintiff's claims for declaratory or injunctive relief be **dismissed**. In all other respects, Defendants' Motion to Dismiss (doc. 34) is **denied**.
3. This case is remanded to Magistrate Judge Gary R. Jones for further proceedings, where the only remaining claims are the alleged retaliatory threats made in violation of the First amendment by Defendants Simpson and Winburn and the only relief available to Plaintiff is nominal damages.

DONE AND ORDERED this 5th day of July, 2012.

S/ Stephan P. Mickle
Stephan P. Mickle
Senior United States District Judge