

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

TONYA L SIMMONS,

Plaintiff,

v.

CASE NO. 4:11-cv-00290-MP-CAS

RODNEY KING, WILLIAM T TAYLOR,

Defendants.

ORDER

This cause comes on for consideration upon the Magistrate Judge's Report and Recommendation dated May 1, 2012. (Doc. 11). The parties have been furnished a copy of the Report and Recommendation and have been afforded an opportunity to file objections pursuant to Title 28, United States Code, Section 636(b)(1). The plaintiff filed objections, Doc. 12, and the Court has made a de novo determination of those portions of the Report and Recommendation to which objection was made. 28 U.S.C. § 636(b)(1)(C). Having considered the Report and Recommendation, and any objections thereto timely filed, the Court agrees that the alleged behavior of the guard while deplorable and unprofessional does not rise to the level of a constitutional violation under the First, Eighth or Fourteenth Amendments. Accordingly, it is hereby

ORDERED AND ADJUDGED:

The magistrate judge's Report and Recommendation is adopted and incorporated by reference in this order. Plaintiff's amended complaint, Doc. 10, is DISMISSED for failure to state a claim upon which relief may be granted pursuant to 28 U.S.C. § 1915(e)(2), and the Clerk of Court is directed to note on the docket that this cause was dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii).

DONE AND ORDERED this 4th day of October, 2012

s/Maurice M. Paul
Maurice M. Paul, Senior District Judge