

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

**DAVID BLACK
and DANIEL MITCHELL,**

Plaintiffs,

v.

CASE NO. 4:14cv88-MW/CAS

**CHRISTOPHER BRUNSON,
GARY ANTHONY FORTNER,
BRYAN CLARK, and
MICHAEL WIMBERLEY,**

Defendants.

**ORDER ACCEPTING AND ADOPTING REPORT AND
RECOMMENDATION AND REMANDING FOR
EVIDENTIARY HEARING**

This Court has considered, without hearing, the Magistrate's Report and Recommendation. ECF No. 26. Upon consideration, no objections having been filed,

IT IS ORDERED:

The report and recommendation is **accepted and adopted** as this Court's opinion. The motion to dismiss of Defendants Fortner, Clark and Wimberley, ECF No. 17, is **DENIED in part**. Plaintiff Black's claims should not be dismissed pursuant to 42 U.S.C. § 1997e(e), nor should the complaint be dismissed because it

was jointly filed. This cause is **remanded for an evidentiary hearing** on the issue of exhaustion of administrative remedies, the hearing to be held within 30 days of the date of this order.

SO ORDERED on November 4, 2014.

s/Mark E. Walker
United States District Judge