

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF GEORGIA  
ATHENS DIVISION

RICARDO ALEXANDER HALL,	:	
	:	
Plaintiff,	:	Civil Action No. 3:11-cv-99(CAR)
	:	
v.	:	PROCEEDINGS UNDER
	:	42 U.S.C. § 1983
GARY COOL,	:	
	:	
Defendant.	:	

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**ORDER ON UNITED STATES MAGISTRATE JUDGE'S RECOMMENDATIONS**

Before the Court are two Recommendations from the United States Magistrate Judge: a Recommendation [Doc. 24] to deny Defendant's Motion for Summary Judgment and a subsequent Recommendation [Doc. 30] to grant Defendant's Motion to Dismiss this case for Plaintiff's failure to prosecute. Having considered the objections and investigated each matter *de novo*, this Court agrees with the findings and conclusions of the United States Magistrate Judge that genuine issues of material fact exist as to Plaintiff's excessive force claim. Thus, the Recommendation [Doc. 24] to deny Defendant's Motion for Summary Judgment is **HEREBY ADOPTED AND MADE THE ORDER OF THE COURT**. However, because Plaintiff has recently updated his address with this Court, the Court finds dismissal of this action for failure to prosecute

to be inappropriate.<sup>1</sup> Thus, the Court **DECLINES TO ADOPT** the Recommendation [Doc. 30] to dismiss this action.

Despite Defendant's arguments to the contrary, this Court agrees with the Magistrate Judge that there are genuine issues of material fact regarding Plaintiff's excessive force claim. For the reasons thoroughly set forth by the Magistrate Judge in the Recommendation, the evidence is sufficient to support a finding that Defendant acted sadistically and maliciously to cause Plaintiff harm.

### CONCLUSION

For the foregoing reasons, the Recommendation [Doc. 24] to deny Defendant's Motion for Summary Judgment is **HEREBY ADOPTED AND MADE THE ORDER OF THE COURT**, and the Recommendation [Doc. 30] to dismiss this action is hereby **REJECTED**. Thus, Defendant's Motions for Summary Judgment [Doc. 18] and Motion to Dismiss [Doc. 26] are hereby **denied**.

**SO ORDERED**, this 24<sup>th</sup> day of September, 2012.

S/ C. Ashley Royal  
C. ASHLEY ROYAL  
UNITED STATES DISTRICT JUDGE

SSH

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<sup>1</sup> The Court notes that at the time the Magistrate Judge issued his Recommendation, Plaintiff had failed to keep this Court informed of his current address. Plaintiff did not update his address until after the Magistrate Judge submitted his Recommendation to dismiss for failure to prosecute.