

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

TONY JACKSON,

Plaintiff

VS.

SERGEANT STEVENS, *et al.*,

Defendants

NO. 5:07-CV-136 (HL)

**PROCEEDINGS UNDER 42 U.S.C. §1983
BEFORE THE U. S. MAGISTRATE JUDGE**

ORDER AND RECOMMENDATION

Plaintiff TONY JACKSON herein has filed a motion to amend his complaint to include an additional defendant. Tab #7. Since this is Plaintiff's first proposed amendment and no defendant has filed any responsive pleading, Plaintiff's motion to amend his complaint and add as a defendant JAMES DONALD is **GRANTED** as a matter of course. Fed.R.Civ.P. 15(a)

However, the plaintiff's allegations against Donald are based solely on Donald's supervisory capacity, and actions cannot be brought pursuant to §1983 under the theory of *respondeat superior*. *Geter v. Wille*, 846 F.2d 1352 (11th Cir.1988).

Accordingly, IT IS RECOMMENDED that JAMES DONALD be DISMISSED from this action. Pursuant to 28 U.S.C. §636(b)(1), the parties may serve and file written objections to this RECOMMENDATION with the district judge to whom this case is assigned **WITHIN TEN (10) DAYS** after being served with a copy thereof.

SO ORDERED AND RECOMMENDED this 1st day of MAY, 2007.



A handwritten signature in blue ink that reads "Claude W. Hicks, Jr.".

CLAUDE W. HICKS, JR.
UNITED STATES MAGISTRATE JUDGE