

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

SHAWN RANDALL BARNES, SR.,

Plaintiff,

v.

**Sergeant BUTCH, Corporal
HARTGROVE, Deputy C. ALLEN,
Officer PITTMAN, Officer JOHNSON,
Officer SMITHWICK, Sheriff BILL
MASSEE, and Captain PETTY,**

Defendants.

CIVIL ACTION NO. 5:10-CV-426 (MTT)

ORDER

This matter is before the Court on the Recommendation (Doc. 6) of United States Magistrate Judge Charles H. Weigle. The Plaintiff's Complaint and Supplement (Doc. 1 & Doc. 5) contain three separate claims. First, the Plaintiff alleges that on December 9, 2009, Defendants Hartgrove, Butch, and Allen assaulted the Plaintiff. Second, the Plaintiff alleges that, due to a poultry allergy, he was forced to "live off of" food items from the Baldwin County Law Enforcement Center ("BCLEC") store for one week until BCLEC officials provided the Plaintiff with a special diet. Finally, the Plaintiff complains of an incident that occurred on June 4, 2010, in which, in response to the Plaintiff kicking over a garbage can, Defendants Hartgrove, Allen, Pittman, Johnson, and Smithwick handcuffed the Plaintiff to a table and threatened to taser him.

The Magistrate Judge recommends that the Plaintiff's "food claim," that the Plaintiff was forced to live off of food items from the BCLEC store for one week until a special diet was provided, be dismissed. With regard to the Plaintiff's claim arising out of the June 4, 2010, incident, the Magistrate Judge recommends that this claim also be dismissed. Accordingly, the Magistrate Judge recommends dismissing Defendants Pittman, Johnson, and Smithwick from this action. Finally, the Magistrate Judge recommends dismissing Defendants Masee and Petty because the Plaintiff has failed to make any factual allegations against these Defendants.

To clarify his Recommendation, the Magistrate Judge amended the Recommendation (Doc. 8), stating that the only claims allowed to go forward are those against Defendants Hartgrove, Butch, and Allen relating to the alleged assaults on December 9, 2009.

The Plaintiff did not file an objection to the Recommendation. The Court has reviewed the Recommendation, and the Recommendation is adopted and made the Order of this Court. Defendants Pittman, Johnson, Smithwick, Masee, and Petty are **dismissed** from this action. The only claims allowed to go forward are those against Defendants Hartgrove, Butch, and Allen relating to the alleged assaults on December 9, 2009.

SO ORDERED, this 10th day of February, 2011.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT