

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

THOMAS WAYNE SMITH,

Plaintiff,

v.

MIKE BROGDON,

Defendant.

CIVIL ACTION NO. 5:11-CV-177 (MTT)

ORDER

Before the Court is Magistrate Judge Charles H. Weigle’s Recommendation (Doc. 31) on the Defendant’s Motion for Summary Judgment (Doc. 26). The Magistrate Judge recommends granting the Defendant’s Motion because the Plaintiff “has failed to demonstrate a genuine issue of fact regarding [the] Defendant’s alleged use of excessive force and because [the] Defendant has shown that he is entitled to judgment as a matter of law.” (Doc. 31 at 1). Further, the Magistrate Judge states “leaving aside the question of whether the allegations in [the] Plaintiff’s Complaint amount to a constitutional violation, [the] Defendant is entitled to qualified immunity because the facts alleged do not show that [the] Defendant violated a clearly established constitutional right.” (Doc. 31 at 6). The Plaintiff has not objected to the Recommendation.

The Court has reviewed the Defendant’s Motion, the Plaintiff’s Response, and the Magistrate Judge’s Recommendation. The Court accepts and adopts the findings, conclusions and recommendations of the Magistrate Judge. The Recommendation is

adopted and made the order of this Court, and the Defendant's Motion for Summary Judgment is **GRANTED**.

SO ORDERED, this 13th day of February, 2013.

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