

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

DARNELL NOLLEY,	:	
	:	
Plaintiff,	:	
	:	
v.	:	NO. 5:15-CV-149-CAR-CHW
	:	
GREGORY MCLAUGHLIN, <i>et al.</i> ,	:	
	:	
Defendants.	:	

---

**ORDER ON REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE**

Currently before the Court is the United States Magistrate Judge’s Report and Recommendation to grant Defendants Trevonza Bobbitt, Stephen Bostick, Dorian Giles, and Sean Henderson’s Motion to Dismiss. Plaintiff has filed an objection to the Recommendation. Also before the Court are the following: Plaintiff’s Motion for Default Judgment; Plaintiff’s Motion to Stay Proceedings; and Defendants McLaughlin, Myrick, Fountain, Demundo and Ellison’s Motion to stay proceedings and extend time for discovery. Having conducted a *de novo* review of the Recommendation and thoroughly considered the record, the Court agrees with the findings and conclusions of the United States Magistrate Judge. The Recommendation [Doc. 128] is therefore **ADOPTED** and **MADE THE ORDER OF THE COURT**, and Defendants’ Motion to Dismiss [Doc. 104] is **GRANTED**. Accordingly, Plaintiff’s claims against Defendants

Bobbitt, Bostick, Giles, and Henderson are **DISMISSED**. In addition, Plaintiff's Motion for Default Judgment [Doc. 137] is **DENIED**; Plaintiff's Motion to Stay Proceedings [Doc. 139] is **MOOT**; and Defendants' Motion to Stay Proceedings and Motion to Extend Discovery [Doc. 147] is **GRANTED IN PART AND DENIED IN PART**. Defendants' request to stay this case is **DENIED**. Defendants' request to extend discovery is **GRANTED IN PART**. As explained below, the parties must complete all discovery within forty-five (45) days of the date of this Order. The parties must file any dispositive motions with twenty-one (21) days from the discovery-completion deadline.

Recommendation on Motion to Dismiss

The Recommendation is to grant Defendants' Motion to Dismiss as to Defendants Bobbitt, Bostic, Giles, and Henderson and dismiss this case as duplicative of Plaintiff's claims against them in *Nolley v. Nelson*, Case No. 5:15-CV-75 (CAR) (M.D. Ga.). The Court agrees with the findings and conclusions of the Recommendation.

Plaintiff filed an Objection correctly pointing out that the Recommendation addresses only Plaintiff's allegations in the Amended Complaint [Doc. 46], not the allegations Plaintiff alleges in his Second Amended Complaint [Doc. 106] which the Magistrate Judge allowed him to file to address the deficiencies Defendants raised in their Motion to Dismiss [Doc. 105]. Thus, this Court has reviewed *de novo* Plaintiff's allegations against Defendants Bobbitt, Bostic, Giles, and Henderson Plaintiff alleges in his Second Amended Complaint and finds they do not change the result here. Plaintiff's

claims against Defendants Bobbitt, Bostic, Giles, and Henderson are still duplicative of the claims Plaintiff raised in *Nolley v. Nelson*, Case No. 5:15-CV-75 (CAR) (M.D. Ga.). Thus, those claims are hereby **DISMISSED**.

Plaintiff's Second Amended Complaint [Doc. 106]

Plaintiff is correct that based on the Magistrate Judge's Notification of Pre-Answer Motion to Dismiss [Doc. 105], Plaintiff's Second Amended Complaint is the controlling Complaint in this case. However, based on this Order and the previous Orders in this case, the ONLY remaining claims going forward are Plaintiff's due process claims against Defendants McLaughlin, Myrick, Fountain, Demundo, and Ellison. All other claims are **DISMISSED**.

Extension of Discovery and Filing Dispositive Motions

Defendants have requested an extension of discovery. Discovery must be complete within forty-five (45) days of the date of this Order, and the parties must file any dispositive motions with twenty-one (21) days from the discovery-completion deadline.

**CONCLUSION**

As set forth above, the Recommendation [Doc. 128] is **ADOPTED** and **MADE THE ORDER OF THE COURT**, and Defendants' Motion to Dismiss [Doc. 104] is **GRANTED**. Plaintiff's Second Amended Complaint [Doc. 106] is the controlling Complaint in this case, and Plaintiff's claims against Defendants Bobbitt, Bostick, Giles,

and Henderson are **DISMISSED**. In addition, Plaintiff's Motion for Default Judgment [Doc. 137] is **DENIED**; Plaintiff's Motion to Stay Proceedings [Doc. 139] is **MOOT**; and Defendants' Motion to Stay Proceedings and Motion to Extend Discovery [Doc. 147] is **GRANTED IN PART AND DENIED IN PART**. Defendants' request to stay this case is **DENIED**. Defendants' request to extend discovery is **GRANTED IN PART**. The parties must complete all discovery within forty-five (45) days of the date of this Order. The parties must file any dispositive motions with twenty-one (21) days from the discovery-completion deadline.

**SO ORDERED**, this 22nd day of January, 2018.

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