

IN THE UNITED STATES DISTRICT COURT
 FOR THE SOUTHERN DISTRICT OF GEORGIA
 BRUNSWICK DIVISION

FILED
 U.S. DISTRICT COURT
 BRUNSWICK DIV.
 2013 FEB 27 A 9 2
 CLERK *C. Robinson*
 SO. DIST. OF GA.

HENRY LEE MORRIS,	:	
	:	
Plaintiff,	:	
	:	
v.	:	CIVIL ACTION NO.: CV212-182
	:	
JEFF DAVIS COUNTY SHERIFF'S	:	
DEPARTMENT; JOHN D. LEE;	:	
RICHARD DEAS; and JEFF DAVIS	:	
COUNTY JAIL,	:	
	:	
Defendants.	:	

ORDER

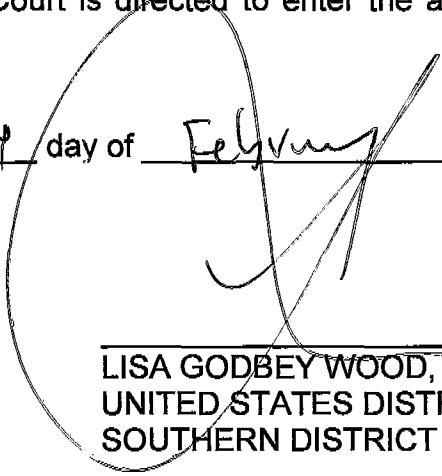
After an independent and *de novo* review of the entire record, the undersigned concurs with the Magistrate Judge's Report and Recommendation, to which Objections have been filed. In his Objections, Plaintiff contends that Defendants Jeff Davis County Jail and Jeff Davis Sheriff's Department were operated and governed by a municipal policy or custom which failed to take into account a situation where a person was released on bond in error. First, Jeff Davis County Jail is a building and is not amenable to suit under 42 U.S.C. § 1983. Second, Plaintiff mentions the lack of a policy or custom in an attempt to hold the Jeff Davis Sheriff's Department liable. However, Plaintiff raises this contention for the first time in his Objections. The undersigned will

not consider this contention. Williams v. McNeil, 557 F.3d 1287, 1292 (11th Cir. 2009) (noting that a district judge has discretion in considering arguments not presented to a magistrate judge). However, even if the undersigned were to consider this contention, Plaintiff's contention is conclusory. Plaintiff cannot impose liability on the Sheriff's Department simply by using words of legal import without setting forth facts sufficient to make such a claim at least plausible.

Plaintiff also states in his Objections that Defendants Deas and Lee arrested him for escape without probable cause. In his original Complaint, Plaintiff wished to sue these Defendants for malicious prosecution, not false arrest. Even accepting as true Plaintiff's conclusory assertion that Defendants Deas and Lee arrested him without probable cause, no facts indicate that Defendants Deas and Lee acted with malice. O.C.G.A. § 51-7-1 (a malicious arrest under Georgia law requires an arrest without probable cause and with malice).

Plaintiff's Objections are **overruled**. The Magistrate Judge's Report and Recommendation, as supplemented by this Order, is adopted as the opinion of the Court. Plaintiff's Complaint is **DISMISSED** for failure to state a claim upon which relief may be granted. The Clerk of Court is directed to enter the appropriate judgment of dismissal.

SO ORDERED, this 26 day of February, 2013.


LISA GODBEY WOOD, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA