

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA  
STATESBORO DIVISION**

CASEY DANIEL PIERCE,

Plaintiff,

v.

GEORGIA STATE PRISON; and MARTY C.  
ALLEN,

Defendants.

CIVIL ACTION NO.: 6:16-cv-172

**ORDER and MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Plaintiff, who is currently housed at Georgia State Prison in Reidsville, Georgia, submitted a Complaint in the above-captioned action pursuant to 42 U.S.C. § 1983. (Doc. 1.) For the reasons set forth below, I **RECOMMEND** that the Court **DISMISS** Plaintiff's Complaint and **DENY** Plaintiff leave to proceed *in forma pauperis* on appeal. Additionally, I **RECOMMEND** the Court **DIRECT** the Clerk of Court to enter the appropriate judgment of dismissal and to **CLOSE** this case.

**BACKGROUND**

Plaintiff filed this action contesting certain conditions of his confinement. Specifically, Plaintiff contends that Defendants violated his Fourteenth Amendment right to due process and his Eighth Amendment right against cruel and unusual punishment by placing him in the Tier II administrative segregation unit ("Tier II Unit"). (Doc. 1, p. 4.) First, Plaintiff contends that he has already been punished for the behavioral infractions upon which his current Tier II

confinement is based. Second, Plaintiff contends Defendants denied him a hearing to contest his continued placement in administrative segregation. (Id.)

### STANDARD OF REVIEW

Plaintiff seeks to bring this action *in forma pauperis* under 42 U.S.C. § 1983. Under 28 U.S.C. § 1915(a)(1), the Court may authorize the filing of a civil lawsuit without the prepayment of fees if the plaintiff submits an affidavit that includes a statement of all of his assets and shows an inability to pay the filing fee and also includes a statement of the nature of the action which shows that he is entitled to redress. Even if the plaintiff proves indigence, the Court must dismiss the action if it is frivolous or malicious, or fails to state a claim upon which relief may be granted. 28 U.S.C. §§ 1915(e)(2)(B)(i)–(ii). Additionally, pursuant to 28 U.S.C. § 1915A, the Court must review a complaint in which a prisoner seeks redress from a governmental entity. Upon such screening, the Court must dismiss a complaint, or any portion thereof, that is frivolous or malicious, or fails to state a claim upon which relief may be granted or which seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. § 1915A(b).

When reviewing a Complaint on an application to proceed *in forma pauperis*, the Court is guided by the instructions for pleading contained in the Federal Rules of Civil Procedure. See Fed. R. Civ. P. 8 (“A pleading that states a claim for relief must contain [among other things] . . . a short and plain statement of the claim showing that the pleader is entitled to relief.”); Fed. R. Civ. P. 10 (requiring that claims be set forth in numbered paragraphs, each limited to a single set of circumstances). Further, a claim is frivolous under Section 1915(e)(2)(B)(i) “if it is ‘without arguable merit either in law or fact.’” Napier v. Preslicka, 314 F.3d 528, 531 (11th Cir. 2002) (quoting Bilal v. Driver, 251 F.3d 1346, 1349 (11th Cir. 2001)).

Whether a complaint fails to state a claim under Section 1915(e)(2)(B)(ii) is governed by the same standard applicable to motions to dismiss under Federal Rule of Civil Procedure 12(b)(6). Thompson v. Rundle, 393 F. App'x 675, 678 (11th Cir. 2010). Under that standard, this Court must determine whether the complaint contains “sufficient factual matter, accepted as true, to ‘state a claim to relief that is plausible on its face.’” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (quoting Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)). A plaintiff must assert “more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not” suffice. Twombly, 550 U.S. at 555. Section 1915 also “accords judges not only the authority to dismiss a claim based on an indisputably meritless legal theory, but also the unusual power to pierce the veil of the complaint’s factual allegations and dismiss those claims whose factual contentions are clearly baseless.” Bilal, 251 F.3d at 1349 (quoting Neitzke v. Williams, 490 U.S. 319, 327 (1989)).

In its analysis, the Court will abide by the long-standing principle that the pleadings of unrepresented parties are held to a less stringent standard than those drafted by attorneys and, therefore, must be liberally construed. Haines v. Kerner, 404 U.S. 519, 520 (1972); Boxer X v. Harris, 437 F.3d 1107, 1110 (11th Cir. 2006) (“*Pro se* pleadings are held to a less stringent standard than pleadings drafted by attorneys.”) (emphasis omitted) (quoting Hughes v. Lott, 350 F.3d 1157, 1160 (11th Cir. 2003)). However, Plaintiff’s unrepresented status will not excuse mistakes regarding procedural rules. McNeil v. United States, 508 U.S. 106, 113 (1993) (“We have never suggested that procedural rules in ordinary civil litigation should be interpreted so as to excuse mistakes by those who proceed without counsel.”). The requisite review of Plaintiff’s Complaint raises several doctrines of law, which the Court discusses as follows.

## DISCUSSION

### I. Dismissal of Claims Against Georgia State Prison

In order to state a claim for relief under Section 1983, a plaintiff must satisfy two elements. First, a plaintiff must allege that an act or omission deprived him “of some right, privilege, or immunity secured by the Constitution or laws of the United States.” Hale v. Tallapoosa Cty., 50 F.3d 1579, 1582 (11th Cir. 1995). Second, a plaintiff must allege that the act or omission was committed by “a person acting under color of state law.” Id. While local governments qualify as “persons” under Section 1983, state agencies and penal institutions are generally not considered legal entities subject to suit. See Grech v. Clayton Cty., 335 F.3d 1326, 1343 (11th Cir. 2003); Darrough v. Allen, No. 1:13-CV-57 WLS, 2013 WL 5902792, at \*3 (M.D. Ga. Oct. 8, 2013) (“A state and its agencies (such as the Georgia Department of Corrections) are not ‘persons’ who may be sued under § 1983.”); see also Williams v. Ga. Dep’t of Corr., No. CV612-050, 2012 WL 3911232, at \*1 (S.D. Ga. Aug. 6, 2012), *report and recommendation adopted*, No. CV612-050, 2012 WL 3910834 (S.D. Ga. Sept. 6, 2012) (“Because the Georgia Department of Corrections is a state agency, it is not a ‘person’ subject to suit under § 1983.”) A prison, such as Georgia State Prison, is a building, not a person, and therefore, is not a viable defendant under Section 1983. Williams v. Chatham Cty. Sherriff’s Complex, Case No. 4:07-cv-68, 2007 WL 2345243 (S.D. Ga. Aug. 14, 2007) (“The county jail, however, has no independent legal identity and therefore is not an entity that is subject to suit under Section 1983.”).

Furthermore, states are immune from private suits pursuant to the Eleventh Amendment and traditional principles of state sovereignty. Alden v. Maine, 527 U.S. 706, 712–13 (1999). Section 1983 does not abrogate the well-established immunities of a state from suit without its

consent. Will v. Mich. Dep't of State Police, 491 U.S. 58, 67 (1989). Here, even if Georgia State Prison were a legal entity subject to suit pursuant to Section 1983, the State of Georgia would be the real party in interest. Accordingly, the Eleventh Amendment immunizes this Defendant from suit. See Free v. Granger, 887 F.2d 1552, 1557 (11th Cir. 1989).

For all of these reasons, the Court should **DISMISS** all claims against Georgia State Prison.

## **II. Dismissal of Claim for Monetary Damages Against Defendant Allen in his Official Capacity**

Plaintiff cannot sustain a Section 1983 claim for monetary damages against Defendant Allen in his official capacity. As laid out in Section I above, the Eleventh Amendment and traditional principles of state sovereignty immunize states from suit in federal court. Alden, 527 U.S. at 712–13. Section 1983 does not abrogate this immunity. Will, 491 U.S. at 67. A lawsuit against Defendant in his official capacity as an employee of the Georgia Department of Corrections is “no different from a suit against the [s]tate itself.” Id. at 71. Accordingly, the Eleventh Amendment immunizes Defendant Allen from suit in his official capacity. See Free, 887 F.2d at 1557. Plaintiff cannot sustain any constitutional claims against Defendant Allen in his official capacity for monetary relief, and the Court should, therefore, **DISMISS** this claim.

## **III. Dismissal of Claims for Compensatory and Punitive Damages**

No Federal civil action may be brought by a prisoner confined in a jail, prison, or other correctional facility, for mental or emotional injury suffered while in custody without a prior showing of physical injury.” 42 U.S.C. § 1997e(e). The purpose of this statute is “to reduce the number of frivolous cases filed by imprisoned plaintiffs, who have little to lose and excessive amounts of free time with which to pursue their complaints.” Napier v. Preslicka, 314 F.3d 528,

531 (11th Cir. 2002) (citing Harris v. Garner, 216 F.3d 970, 976–79 (11th Cir. 2000)). “Tracking the language of [this] statute, § 1997e(e) applies only to lawsuits involving (1) Federal civil actions (2) brought by a prisoner (3) for mental or emotional injury (4) suffered while in custody.” Id. at 532.

In Williams v. Brown, 347 F. App’x 429, 436 (11th Cir. 2009), the Eleventh Circuit stated that, “compensatory damages under § 1983 may be awarded only based on actual injuries caused by the defendant and cannot be presumed or based on the abstract value of the constitutional rights that the defendant violated. Pursuant to 42 U.S.C. § 1997e(e), in order to recover for mental or emotional injury suffered while in custody, a prisoner bringing a § 1983 action must demonstrate more than a *de minim[is]* physical injury.” Id. (internal citations omitted) (alterations in original). Consequently, a prisoner that has not suffered any physical injury cannot recover compensatory or punitive damages. Al-Amin v. Smith, 637 F.3d 1192, 1199 (11th Cir. 2011) (“In sum, our published precedents have affirmed district court dismissals of punitive damage claims under the PLRA [(Prison Litigation Reform Act)] because the plaintiffs failed to meet § 1997e(e)’s physical injury requirement.”); Smith v. Allen, 502 F.3d 1255, 1271 (11th Cir. 2007) (“Plaintiff seeks nominal, compensatory, and punitive damages. It is clear from our case law, however, that the latter two types of damages are precluded under the PLRA.”), *abrogated on other grounds by* Sossamon v. Texas, 563 U.S. 277 (2011). “In order to avoid dismissal under § 1997e(e), a prisoner’s claims for emotional or mental injury must be accompanied by allegations of physical injuries that are greater than *de minimis*.” Mitchell v. Brown & Williamson Tobacco Corp., 294 F.3d 1309, 1312–13 (11th Cir. 2002). “The meaning of the phrase ‘greater than *de minimis*,’ however, is far from clear.” Chatham v. Adcock, 334 F. App’x 281, 284 (11th Cir. 2009).

In this case, Plaintiff has not alleged that he has suffered any physical injury due to Defendants' alleged constitutional violations. Accordingly, the Court should **DISMISS** Plaintiff's claims for compensatory and punitive damages pursuant to 42 U.S.C. § 1997e(e).

#### **IV. Dismissal of Due Process Claims**

Plaintiff contends that Defendants have violated his due process rights by placing him in administrative segregation. As an initial matter, this Court must give deference to prison officials on matters of prison administration and should not meddle in issues such as the contents of a prisoner's file and a prisoner's housing. Courts traditionally are reluctant to interfere with prison administration and discipline, unless there is a clear abuse of discretion. See Procunier v. Martinez, 416 U.S. 396, 404–05 (1974) (“Traditionally, federal courts have adopted a broad hands-off attitude toward problems of prison administration [because] . . . courts are ill equipped to deal with the increasingly urgent problems of prison administration and reform.”), *overruled on other grounds by* Thornburgh v. Abbott, 490 U.S. 401 (1989). In such cases, “[d]eference to prison authorities is especially appropriate.” Newman v. State of Alabama, 683 F.2d 1312, 1320–21 (11th Cir. 1982) (reversing district court’s injunction requiring release of prisoners on probation because it “involved the court in the operation of the State’s system of criminal justice to a greater extent than necessary” and less intrusive equitable remedy was available); see also Thornburgh, 490 U.S. at 407–08 (“Acknowledging the expertise of these officials and that the judiciary is ‘ill equipped’ to deal with the difficult and delicate problems of prison management, this Court has afforded considerable deference to the determinations of prison administrators who, in the interest of security, regulate the relations between prisoners and the outside world.”); Bell v. Wolfish, 441 U.S. 520, 547 (1979) (acknowledging that courts have “accorded wide-ranging deference [to prison administrators] in adoption and execution of policies and practices

that in their judgment are needed to preserve internal order and discipline and to maintain institutional security.”); Jones v. N. Carolina Prisoners’ Labor Union, 433 U.S. 119, 129 (1977) (“Prison officials must be free to take appropriate action to ensure the safety of inmates and corrections personnel and to prevent escape or unauthorized entry.”); Bradley v. Hart, No. CV513-127, 2015 WL 1032926, at \*10 (S.D. Ga. Mar. 9, 2015) (“It does not appear to be appropriate for this Court to order that prison officials remove entries from Plaintiff’s file, which may or may not be accurate.”).

However, the Court will assess whether Plaintiff has plausibly stated a claim for denial of his procedural or substantive due process rights by placing him in administrative segregation.

**A. Procedural due process**

An inmate states a cognizable claim for the deprivation of his procedural due process rights under the Fourteenth Amendment when he alleges the deprivation of a constitutionally protected liberty or property interest, state action, and constitutionally inadequate process. Shaarbay v. Palm Beach Cty. Jail, 350 F. App’x 359, 361 (11th Cir. 2009) (citing Cryder v. Oxendine, 24 F.3d 175, 177 (11th Cir. 1994)). “Prison disciplinary proceedings are not part of a criminal prosecution, and the full panoply of rights due a defendant in such proceedings does not apply.” Wolff v. McDonnell, 418 U.S. 539, 556, (1974). Rather, “a disciplinary proceeding, whose outcome will ‘impose[ ] atypical and significant hardship on the inmate’ must ensure the following due process rights: (1) advance written notice of the claimed violation, (2) a written statement by the fact finders as to the evidence relied upon and the reasons for the disciplinary action taken, and (3) an opportunity to call witnesses and present documentary evidence in his defense.” Asad v. Crosby, 158 F. App’x 166, 173 (11th Cir. 2005) (citing Wolff, 418 U.S. at 563–67).



Although Plaintiff alleges that his placement in administrative segregation was punitive in nature,<sup>1</sup> Plaintiff presents no facts plausibly alleging this confinement resulted in any atypical or significant hardship. Accordingly, Plaintiff cannot sustain a procedural due process claim against Defendants.<sup>2</sup>

### **B. Substantive Due Process**

“The Due Process Clause protects against deprivations of ‘life, liberty, or property without due process of law.’” Kirby v. Siegelman, 195 F.3d 1285, 1290 (11th Cir. 1999) (quoting U.S. Const. Amend. XIV). The Supreme Court has identified two situations in which a prisoner can be deprived of liberty such that the protection of due process is required: (1) there is a change in the prisoner’s conditions of confinement so severe that it essentially exceeds the sentence imposed by the court; and (2) the State has consistently given a benefit to prisoners, usually through a statute or administrative policy, and the deprivation of that benefit “imposes atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life.” Id. at 1290–91 (quoting Sandin v. Conner, 515 U.S. 472, 484 (1995)).

In Sandin, the United States Supreme Court addressed whether the punishment inmate Conner received for a disciplinary violation was sufficient to invoke a liberty interest protected

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<sup>1</sup> Plaintiff states that he was “placed [i]n Tier II [administrative segregation] because of [his] disciplinary history.” (Doc. 1, p. 4.)

<sup>2</sup> A prisoner’s detention in administrative or disciplinary segregation may constitute an “atypical and significant hardship” in relation to the ordinary incidents of prison life if that confinement is long-term or indefinite. Hill v. Sellars, 2016 WL 1554118, at \*3 (M.D. Ga. Mar. 4, 2016) (citing Sandin, 515 U.S. at 484; Williams v. Fountain, 77 F.3d 372, 374, n.3 (11th Cir. 1996) (finding that a full year of solitary confinement constituted an “atypical and significant hardship” warranting due process protections)). Here, however, Plaintiff alleges that he was placed in the Tier II Unit on November 9, 2016—less than six weeks prior to the filing of his Complaint. (Doc. 1, p. 4.) See Rodgers v. Singletary, 142 F.3d 1252, 1253 (11th Cir. 1998) (affirming that two months’ confinement to administrative segregation was not a deprivation of a constitutionally protected liberty interest). Furthermore, Plaintiff does not allege that his confinement in the Tier II Unit is indefinite. Accordingly, Plaintiff fails to state a plausible due process claim for these additional reasons.

by the Due Process Clause. 515 U.S. at 472. Following a disciplinary conviction, Conner received 30 days' disciplinary segregation in a Special Housing Unit. Id. at 475. After noting that the segregation was a form of punishment, the Court concluded that it was not a dramatic departure from the conditions of Conner's indeterminate sentence. Id. at 485. The Supreme Court held there is no right inherent in the Due Process Clause for an inmate not to be placed in disciplinary segregation nor is there a state-created liberty interest to be free from disciplinary segregation. Id. at 487. The Court determined that the conditions of disciplinary segregation at the prison where Conner was incarcerated were virtually indistinguishable from the conditions of administrative segregation and protective custody. Id. at 486. Also, the Court noted that the conditions of disciplinary segregation were not markedly different from the conditions in general population. Id. The Court concluded that the conditions of disciplinary segregation did not impose an "atypical, significant deprivation in which a State might conceivably create a liberty interest." Id. Thus, the Court determined that Conner was not entitled to due process protection. Id. at 487. The Court observed that this holding was a return to the due process principles of Wolff v. McDonnell, 418 U.S. 539 (1974), and Meachum v. Fano, 427 U.S. 215 (1976), which required an inmate to suffer a "grievous loss" before a liberty interest could be found. Id. at 478-83. The Sandin Court ruled that in the future, liberty interests "will be generally limited to freedom from restraint which, while not exceeding the sentence in such an unexpected manner as to give rise to protection by the Due Process Clause of its own force, (citations omitted), nonetheless imposes atypical and significant hardship on the inmate in relation to the ordinary incidents of prison life." Id. at 480, 484; see also Rodgers v. Singletary, 142 F.3d 1252, 1253 (11th Cir. 1998) (affirming that two months' confinement to administrative segregation was not a deprivation of a constitutionally protected liberty interest).

An inmate, therefore, has a liberty interest related to his confinement in segregation only if the state has created a liberty interest through the nature of the conditions. Sandin, 515 U.S. at 487. To determine whether the state has created a liberty interest, courts must look to the nature of the conditions of the confinement in relation to the ordinary incidents of prison life, rather than to the language of the regulations regarding those conditions. Id. at 484; Wallace v. Hamrick, 229 F. App'x 827, 830 (11th Cir. 2007). Courts should also consider the duration of the confinement in segregation when determining if the confinement constitutes an atypical and significant hardship. See Al-Amin v. Donald, 165 F. App'x 733, 738 (11th Cir. 2006); see also Williams v. Fountain, 77 F.3d 372, 374 (11th Cir. 1996).

In the present action, Plaintiff has not plausibly alleged that his placement in administrative segregation deprives him of a liberty interest inherent in the Constitution. Plaintiff fails to state what liberty interest is at stake from his placement in the unit. Moreover, Plaintiff fails to set forth any facts which plausibly could lead to the conclusion that the conditions of administrative segregation impose an atypical and significant hardship on him relative to the ordinary incidents of prison life. Thus, Plaintiff's confinement in administrative segregation does not deprive him of a constitutional liberty interest or a state-created liberty interest to which due process could attach.

In short, Plaintiff fails to set forth facts sufficient to render any procedural due process or substantive due process claim plausible against Defendants. Thus, the Court should **DISMISS** Plaintiff's due process claims.

#### **V. Dismissal of Cruel and Unusual Punishment Claims**

The cruel and unusual punishment standard of the Eighth Amendment requires prison officials to "ensure that inmates receive adequate food, clothing, shelter, and medical care."

Farmer v. Brennan, 511 U.S. 825, 832 (1994). Generally speaking, however, “prison conditions rise to the level of an Eighth Amendment violation only when they involve the wanton and unnecessary infliction of pain.” Chandler v. Crosby, 379 F.3d 1278, 1289 (11th Cir. 2004) (quotations omitted). Thus, not all deficiencies and inadequacies in prison conditions amount to a violation of a prisoner’s constitutional rights. Rhodes v. Chapman, 452 U.S. 337, 349 (1981). The Constitution does not mandate comfortable prisons. Id. Prison conditions violate the Eighth Amendment only when the prisoner is deprived of “the minimal civilized measure of life’s necessities.” Id. at 347.

Even accepting Plaintiff’s assertions that Defendants arbitrarily placed him in administrative confinement, he fails to plausibly state an Eighth Amendment claim. The conditions imposed in “administrative segregation and solitary confinement do not, in and of themselves, constitute cruel and unusual punishment.” Sheley v. Dugger, 833 F.2d 1420, 1428–29 (11th Cir. 1987); see also Gholston v. Humphrey, No. 5:12-CV-97-MTT-MSH, 2014 WL 4976248, at \*3 (M.D. Ga. Oct. 3, 2014) (dismissing prisoner’s claims that his transfer to SMU with more restrictive conditions without a “legitimate penological justification” amounts to an Eighth Amendment violation); Anthony v. Brown, No. CV 113-058, 2013 WL 3778360, at \*2 (S.D. Ga. July 17, 2013) (dismissing on frivolity review Eighth Amendment claims based on conditions of confinement in crisis stabilization unit). As detailed above, an Eighth Amendment violation requires the prisoner to allege that he is deprived of “the minimal civilized measure of life’s necessities.” Rhodes, 452 U.S. at 349. Plaintiff does not plausibly allege that the conditions of his confinement in administrative segregation fall below this standard.

Accordingly, the Court should **DISMISS** Plaintiff’s Eighth Amendment cruel and unusual punishment claim based upon his placement in administrative confinement.

## VI. Leave to Appeal *in Forma Pauperis*

The Court should also deny Plaintiff leave to appeal *in forma pauperis*.<sup>3</sup> Though Plaintiff has, of course, not yet filed a notice of appeal, it would be appropriate to address these issues in the Court's order of dismissal. Fed. R. App. P. 24(a)(3) (trial court may certify that appeal is not taken in good faith "before or after the notice of appeal is filed").

An appeal cannot be taken *in forma pauperis* if the trial court certifies that the appeal is not taken in good faith. 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a)(3). Good faith in this context must be judged by an objective standard. Busch v. Cnty. of Volusia, 189 F.R.D. 687, 691 (M.D. Fla. 1999). A party does not proceed in good faith when he seeks to advance a frivolous claim or argument. See Coppedge v. United States, 369 U.S. 438, 445 (1962). A claim or argument is frivolous when it appears the factual allegations are clearly baseless or the legal theories are indisputably meritless. Neitzke v. Williams, 490 U.S. 319, 327 (1989); Carroll v. Gross, 984 F.2d 392, 393 (11th Cir. 1993). Or, stated another way, an *in forma pauperis* action is frivolous and, thus, not brought in good faith, if it is "without arguable merit either in law or fact." Napier v. Preslicka, 314 F.3d 528, 531 (11th Cir. 2002); see also Brown v. United States, Nos. 407CV085, 403CR001, 2009 WL 307872, at \*1-2 (S.D. Ga. Feb. 9, 2009).

Based on the above analysis of Plaintiff's action, there are no non-frivolous issues to raise on appeal, and an appeal would not be taken in good faith. Thus, the Court should **DENY** Plaintiff *in forma pauperis* status on appeal.

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<sup>3</sup> A certificate of appealability is not required in this Section 1983 action.

## CONCLUSION

For the above-stated reasons, I **RECOMMEND** that the Court **DISMISS** this case and **DENY** Plaintiff leave to appeal *in forma pauperis*.

The Court **ORDERS** any party seeking to object to this Report and Recommendation to file specific written objections within **fourteen (14) days** of the date on which this Report and Recommendation is entered. Any objections asserting that the Magistrate Judge failed to address any contention raised in the pleading must also be included. Failure to do so will bar any later challenge or review of the factual findings or legal conclusions of the Magistrate Judge. See 28 U.S.C. § 636(b)(1)(C); Thomas v. Arn, 474 U.S. 140 (1985). A copy of the objections must be served upon all other parties to the action. The filing of objections is not a proper vehicle through which to make new allegations or present additional evidence.

Upon receipt of objections meeting the specificity requirement set out above, a United States District Judge will make a *de novo* determination of those portions of the report, proposed findings, or recommendation to which objection is made and may accept, reject, or modify in whole or in part, the findings or recommendations made by the Magistrate Judge. Objections not meeting the specificity requirement set out above will not be considered by a District Judge. A party may not appeal a Magistrate Judge's report and recommendation directly to the United States Court of Appeals for the Eleventh Circuit. Appeals may be made only from a final judgment entered by or at the direction of a District Judge.

The Court **DIRECTS** the Clerk of Court to serve a copy of this Report and Recommendation upon the Plaintiff.

**SO ORDERED** and **REPORTED** and **RECOMMENDED**, this 12th day of January, 2017.



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R. STAN BAKER  
UNITED STATES MAGISTRATE JUDGE  
SOUTHERN DISTRICT OF GEORGIA