

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

JARVIS DEMON BOOKER,

Plaintiff,

v.

OFFICER ERVIN; SGT. WILLIAMS; and
SGT BLAKELY,

Defendants.

CIVIL ACTION NO.: 6:17-cv-15

ORDER

The Court has conducted an independent and de novo review of the entire record and concurs with the Magistrate Judge's Report and Recommendation, (doc. 35). No party to this case has filed an objection to the Report and Recommendation. Accordingly, the Court **ADOPTS** the Magistrate Judge's Report and Recommendation as the opinion of the Court. The Court **GRANTS** Defendants' unopposed Motion for Summary Judgment, (doc. 32), and **DISMISSES** all claims against Defendants Williams and Blakely in their entirety and Plaintiff's claims for compensatory and punitive damages against Defendant Ervin. Plaintiff's excessive force claims for nominal damages against Defendant Ervin shall remain pending

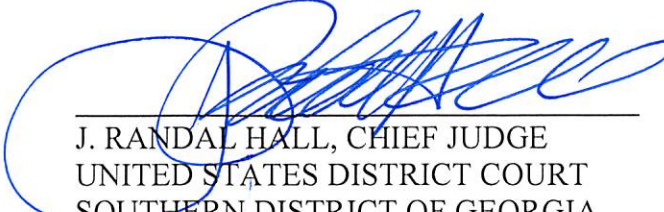
The Court also **DENIES** Plaintiff leave to appeal *in forma pauperis* as to his dismissed claims. Though Plaintiff has not yet filed a notice of appeal, the Court may address the matter at this time. Fed. R. App. P. 24(a)(3) (trial court may certify that appeal is not taken in good faith "before or 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. County 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). An *in forma pauperis* action is frivolous and 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 pleadings filed and the Magistrate Judge’s Report and Recommendation, with which the undersigned concurs, there are no non-frivolous issues to raise on appeal, and an appeal would not be taken in good faith. Thus, the Court **DENIES** Plaintiff *in forma pauperis* status on appeal as to his dismissed claims.

SO ORDERED, this 29th day of March, 2019.



J. RANDAL HALL, CHIEF JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA