IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF MISSISSIPPI GREENVILLE DIVISION

JOEY L. JUSHAWAY

PLAINTIFF

V.

NO. 4:08CV004-P-D

CHRISTOPHER EPPS, et al.

DEFENDANTS

ORDER

Upon consideration of the file and records in this action, the court finds that the Report and

Recommendation of the United States Magistrate Judge dated November 18, 2008, was on that date

duly served by mail upon Plaintiff at his last known address; that more than ten days have elapsed

since service of the Report and Recommendation; and that no objection to the Report and

Recommendation has been served or filed by any party. The court is of the opinion that the

Magistrate Judge's Report and Recommendation should be approved and adopted as the opinion of

the court. Therefore, it is

ORDERED:

1) the Report and Recommendation of the United States Magistrate Judge dated November

18, 2008, is hereby APPROVED and ADOPTED as the opinion of the court;

2) Plaintiff's motion to dismiss (docket entry 55) is DENIED;

3) Defendants' motion for summary judgment (docket entry 50) is DENIED; and

4) this matter shall proceed.

THIS the 5th day of December, 2008.

/s/ W. Allen Pepper, Jr.

W. ALLEN PEPPER, JR.

UNITED STATES DISTRICT JUDGE