

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**MELVIN GARCIA # 01403-748**

**PLAINTIFF**

**v.**

**CIVIL ACTION NO. 1:17cv26-LG-RHW**

**FLOYD SPOTTS, et al.**

**DEFENDANTS**

**ORDER ADOPTING REPORT AND RECOMMENDATION,  
AND GRANTING MOTION FOR SUMMARY JUDGMENT**

For the reasons stated in the [52] Report and Recommendation of the Magistrate Judge filed September 24, 2018, and after an independent review of the record, a de novo determination of the issues, and consideration of Plaintiff's [54] Response to the Report and Recommendation, and having determined that the findings are correct under applicable law:

**IT IS ORDERED AND ADJUDGED** that the [47] Motion for Summary Judgment filed by Defendants Floyd Spotts, Kerwin Blount, and Pease Sumrall, Jr. is **GRANTED**. Plaintiff's official capacity claims against Spotts, Blount and Sumrall are **DISMISSED** with prejudice as barred by sovereign immunity. Plaintiff's state law claims against Spotts, Blount and Sumrall are **DISMISSED** with prejudice as barred by state law immunity. Plaintiff's federal civil rights claims against Sumrall are **DISMISSED** with prejudice pursuant to qualified immunity. Plaintiff's excessive force claims against Spotts and Blount shall proceed.

**SO ORDERED AND ADJUDGED** this the 18<sup>th</sup> day of December, 2018.

*s/ Louis Guirola, Jr.*

LOUIS GUIROLA, JR.  
UNITED STATES DISTRICT JUDGE