

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

**JOHNNY L. McGOWAN, JR.,**

**Plaintiff,**

**v.**

**SGT. J. MITCHELL, et al.,**

**Defendants.**

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**Civil Action No. 3:14-cv-00578  
Judge Trauger / Knowles**

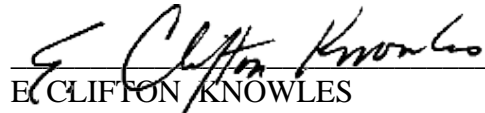
**REPORT AND RECOMMENDATION**

This matter is before the Court upon by a Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(6) filed by Defendant Darrell Thomas. Docket No. 58. Defendant has contemporaneously filed a supporting Memorandum of Law. Docket No. 59. As grounds for his Motion, Defendant argues that he should be dismissed from this action because Plaintiff's Complaint fails to state any factual allegations against him. *Id.*

Plaintiff has not responded to the instant Motion, but did file a Motion For Leave to Amend the Complaint Relative to Darrell Thomas (Docket No. 62), which was granted (Docket No. 79). Plaintiff's Motion (Docket No. 62) contained the amended allegations against Defendant Thomas specifically, and is the operative Complaint against him. Accordingly, the instant Motion (Docket No. 58) should be DENIED AS MOOT, as it relates to Plaintiff's original Complaint.

Under Rule 72(b) of the Federal Rules of Civil Procedure, any party has fourteen (14) days after service of this Report and Recommendation in which to file any written objections to this Recommendation with the District Court. Any party opposing said objections shall have

fourteen (14) days after service of any objections filed to this Report in which to file any response to said objections. Failure to file specific objections within fourteen (14) days of service of this Report and Recommendation can constitute a waiver of further appeal of this Recommendation. *See Thomas v. Arn*, 474 U.S. 140, 106 S.Ct. 466, 88 L. Ed. 2d 435 (1985), *reh'g denied*, 474 U.S. 1111 (1986); 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72.

  
E. CLIFTON KNOWLES  
United States Magistrate Judge