No._____

In The

Supreme Court of the United States

WILLIAM JOHNSON,

Petitioner

v.

COUNTY OF PAULDING, GEORGIA; BOARD OF COMMISSIONERS FOR PAULDING COUNTY; PAULDING COUNTY SHERIFF'S DEPARTMENT; SHERIFF GARY GULLEDGE IN HIS OFFICIAL & INDIVIDUAL CAPACITY OFFICER "AL" GONZALEZ IN HIS OFFICIAL & INDIVIDUAL CAPACITY; And MAJOR SHELIA CRATON IN HER OFFICIAL & INDIVIDUAL CAPACITY,

Respondents

On Petition For Writ Of Certiorari to the United States Court Of Appeals for the Eleventh Circuit

APPENDICES FOR PETITION FOR WRIT OF CERTIORARI

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APPENDIX A

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF GEORGIA

ROME DIVISION

WILLIAM JOHNSON,

Plaintiff,

V.

COUNTY OF PAULDING,
GEORGIA, BOARD OF
COMMISSIONERS FOR
PAULDING COUNTY,
PAULDING COUNTY
SHERIFF'S DEPARTMENT,
SHERIFF GARY GULLEDGE,
in his official and individual
capacity, OFFICER AL
GONZALEZ, in his official and
individual capacity, AND
MAJOR SHELIA CRATON, in
her official and individual
capacity,

Defendants.

CIVIL ACTION FILE NO.

4:18-CV-0136-HLM

ORDER

Case 4:18-cv-00136-HLM Document 16 Filed 10/31/18 Page 1 of 20

This case is before the Court on the Motion to Dismiss filed by Defendants Board of Commissioners for Paulding County ("Defendant Board"), County of Paulding, Georgia ("Defendant Paulding County"), Paulding County Sheriff's Department ("Defendant PCSD"), Defendant Sheriff Gary Gulledge, in his official capacity ("Defendant Gulledge"), Defendant Officer Al Gonzalez, in his official capacity ("Defendant Gonzalez"), and Defendant Major Shelia Craton, in her official capacity ("Defendant Craton") [8].

I. Standard of Review for a Motion to Dismiss

Federal Rule of Civil Procedure 12(b)(6) allows the Court to dismiss a complaint, or portions of a complaint, for "failure to state a claim upon which relief can be granted." Fed. R. Civ. P. 12(b)(6). When reviewing a motion to dismiss, the Court must take the allegations of the complaint as true and must construe those allegations in the light most favorable to the plaintiff. Alvarez v. Att'y Gen. for Fla., 679 F.3d 1257, 1261 (11th Cir. 2012).

Although a court is required to accept well-pleaded facts as true when evaluating a motion to

dismiss, it is not required to accept the plaintiff's legal conclusions. Chandler v. Sec'y of Fla. Dep't of Transp., 695 F.3d 1194, 1199 (11th Cir. 2012) (per curiam) (citing Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009)).

The Court also does not accept as true "unwarranted deductions of fact[] or legal conclusions masquerading as facts." Snow v. DirecTV, Inc., 450 F.3d 1314, 1320 (11th Cir. 2006) (internal quotation marks and citation omitted). Finally, the Court may dismiss a complaint if it does not plead "sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." Simpson v. Sanderson Farms, Inc., 744 F.3d 702, 708 (11th Cir. 2014) (internal quotation marks omitted) (quoting Iqbal, 556 U.S. at 678).

In Bell Atlantic Corp. v. Twombly, 550 U.S. 544 (2007), the Supreme Court observed that a complaint "requires more than labels and conclusions, and a formulaic recitation of the elements of a cause of action will not do." 550 U.S. at 555. Although factual allegations in a complaint need not be detailed, those allegations "must be enough to raise a right to relief above the speculative level on the assumption that all the allegations in the complaint are true (even if doubtful in fact)." Id.

Moreover, "[a] claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." Iqbal, 556 U.S. at 678. The mere possibility that the defendant might have acted unlawfully is not sufficient to allow a claim to survive a motion to dismiss. Id. Instead, the well-pleaded allegations of

the complaint must move the claim "across the line from conceivable to plausible." Twombly, 550 U.S. at 570.

II. Background

A. Procedural Background

On June 5, 2018, Plaintiff, proceeding pro se, filed this action. (Compl. (Docket Entry No. 1).) Plaintiff asserted several claims, including: (1) a First Amendment claim asserted under 42 U.S.C. § 1983 (id. If 23); (2) a § 1983 Fourth Amendment false arrest claim (id. J 24); (3) a § 1983 Fifth Amendment due process claim (id. If 25); (4) a § 1983 Sixth Amendment due process claimed based on an alleged refusal by Defendants to permit Plaintiff "to obtain witnesses and confront accusers at a probable cause hearing" (id. ¶ 26); (5) a § 1983 Eighth Amendment claim contending that "Defendants were deliberately indifferent to the Constitutional and Statutory Rights of Plaintiff while incarcerated" by keeping Plaintiff incarcerated over six months "for a misdemeanor accusation, having set excessive bail so Plaintiff could not bond out [of] their jail" (id. 11 27); (6) a § 1983 Fourteenth Amendment due process claim based on Defendants' allegedly keeping Plaintiff incarcerated "for over six months without presenting him before a judicial officer for determination of probable cause" (id. IT 28); (7) a state law claim for intentional infliction of emotional distress (id. ¶ 29); (8) a state law punitive damages claim (id. IT 30); (9) a state law claim for "other damages" (id. ¶ 31); and (10) an attorneys' fees claim (id. ¶ 32).

On September 20, 2018, Defendants filed a Motion to Dismiss. (Mot. Dismiss (Docket Entry No. 8).) Plaintiff filed a response to the Motion to Dismiss. (Resp. Mot. Dismiss Docket Entry No. 11).) The briefing process for that Motion is complete, and the Court finds that the matter is ripe for resolution.

B. Plaintiff's Allegations

Plaintiff alleges that, on January 28, 2016, Defendant Gonzalez, an officer with Defendant PCSD, arrested Plaintiff "under the color of a Uniform Traffic Citation, Summons." Accusation from Defendant PSCD. (Compl. ¶ 12.) According to Plaintiff, Defendant Gonzalez "did not have probable cause to [arrest] Plaintiff." (Id. IT 13.) Plaintiff asserts that Defendant Gonzalez arrested him "based [on] the testimony of a third party for a traffic violation." (Id.IT 14.)

Plaintiff complains that no Defendant PCSD agent applied for an arrest warrant for Plaintiff. (Id. 11 15.) Plaintiff further alleges that no Defendant PCSD agent took him "before a judicial officer to make a determination of probable cause within a prompt period after the arrest." (Id IT 16.) Plaintiff contends that he "needlessly spent over six months in the Paulding County Jail under the assumed authority of solely a uniform traffic citation." (Id. IT 17.)

According to Plaintiff, all of the charges brought against him were dismissed on June 6, 2017. (Id. If 18.) Plaintiff claims that, while he was incarcerated, "Defendants obstructed and interfered with Plaintiff's attempts to file pleadings in Court." (Comp!. IT 19.) Plaintiff further alleges that

Defendant Board, Defendant Paulding County, Defendant PCSD, Defendant Gulledge, and Defendant Craton are "responsible and liable for training police officers of [Defendant PCSD] and Paulding County Jail to comply with State and Federal Law concerning the rights of individuals arrest[ed] or detained at the Paulding County Jail." (Id. ¶ 20.)

Defendants Gulledge, Craton, and Gonzalez moved to dismiss Plaintiff's § 1983 claims asserted against them and Defendants Craton, Gonzalez, and Gulledge also filed a Motion for Summary Judgment with respect to Plaintiff's claims asserted against them in their individual capacities. (Mot. Summ. J. (Docket Entry No. 9).) The Court will address that Motion in a separate Order.

Plaintiff's response to the Motion to Dismiss technically is untimely, as Plaintiff filed the response more than seventeen days after Defendants filed the Motion. The Court exercises its discretion to consider the response as if Plaintiff had filed it in a timely manner.

Ill. Discussion

A. § 1983 Claims Asserted Against Defendants

Gulledge, Craton, and Gonzalez in Their Official Capacities Defendants Gulledge, Craton, and Gonzalez moved to dismiss Plaintiff's § 1983 claims asserted against them in their official capacities, arguing that, under Georgia law, a sheriff is considered an arm of the State and is entitled to Eleventh Amendment immunity for certain law

enforcement functions. (Br. Supp. Mot. Dismiss (Docket Entry No. 8-1) at 2-4.)

A suit against a public official in his official capacity is considered a suit against the entity that the official represents. Salvato v. Miley, 790 F.3d 1286, 1295 (11th Cir. 2015). "The Eleventh Amendment protects a State from being sued [for damages] in federal court without the State's consent." Manders v. Lee, 338 F.3d 1304, 1308 (11th Cir. 2003) (en banc). "To receive Eleventh Amendment immunity, a defendant need not be labeled a 'state officer' or 'state official,' but instead need only be acting as an 'arm of the State,' which includes agents and instrumentalities of the State." Id.

"The amendment applies even when a state is not named as a party of record, if for all practical purposes the action is against the state." Kaimowitz v. Fla. Bar, 996 F.2d 1151, 1155 (11th Cir. 1993). "A state official may not be sued in his official capacity unless the state has waived its Eleventh Amendment immunity . . . or Congress has abrogated the state's immunity." Lancaster v. Monroe Cnty., Ala., 116 F.3d 1419, 1429 (11th Cir. 1997), overruled on other grounds by LeFrere v. Quezada, 588 F.3d 1317, 1318 (11th Cir. 2009).

The United States Court of Appeals for the Eleventh Circuit has concluded that a Georgia sheriff is an arm of the State and is entitled to Eleventh Amendment immunity from § 1983 liability for certain law enforcement functions. See Manders v. Lee, 338 F.3d 1304, 1328 (11th Cir. 2003) (en banc) (concluding that, under Georgia law, a sheriff sued in his official capacity was an arm of the State, not the county, with

respect to "establishing use-of-force policy at the jail and in training and disciplining his deputies in that regard", and was "entitled to Eleventh Amendment immunity" (footnote omitted)); see also Grech v. Clayton Cty., Ga., 335 F.3d 1326, 1348, 1366 (11th Cir. 2003) (en banc) (concluding that, under Georgia law, "the Clayton County Sheriff is not a county policymaker under § 1983 for his law enforcement conduct and policies regarding warrant information on the CJIS systems or the training and supervision of his employees in that regard").

Other district courts in this Circuit have concluded that Eleventh Amendment immunity bars § 1983 Fourth Amendment seizure claims asserted against a sheriff in his official capacity. See Moon v. Rockdale Cty., 188 F.Supp. 3d 1369, 1378-79 (N.D. Ga. 2016) (concluding that a sheriff's department was an arm of the State and entitled to Eleventh Amendment immunity for § 1983 official capacity claims based on violations of the Fourth and Fourteenth Amendment); Richardson v. Quitman Cty., Ga., 912 F. Supp. 2d 1354, 1366 (M.D. Ga. 2012) (finding that a county sheriff and deputies were entitled to Eleventh Amendment immunity for § 1983 official capacity claims arising from strip searches and arrests); Farr v. Hall Cty., Ga., Civil Action No. 2:11-CV00074-RWS, 2011 WL 5921462, at *6-7 (N.D. Ga. Nov. 28, 2011) (concluding that a sheriff was an arm of the State and entitled to Eleventh Amendment immunity for § 1983 official capacity claims arising from a search and seizure).

The Court finds those cases persuasive, and concludes that Eleventh Amendment immunity bars

Plaintiff's § 1983 official capacity claims against Defendant Gulledge.

The Court finds unpersuasive Plaintiff's attempts to distinguish this case from Manders. (See generally Resp. Mot. Dismiss.) The Court notes that other courts have concluded that Georgia sheriffs are entitled to Eleventh Amendment immunity for claims similar to those asserted in this action. Scruggs v. Lee, Civil Action No. 7:05-CV-95(HL), 2006 WL 2850427, at *4-5 (M.D. Ga. Sept. 30, 2006) (finding that a sheriff was entitled to Eleventh Amendment immunity for claims relating to allegedly unlawful seizure, search, arrest, and detention), aff'd, 256 F. App'x 229 (11th Cir. 2007); Young v. Graham, No. CV 304-066, 2005 WL 2237634, at *7 (S.D. Ga. Aug. 11, 2005) (concluding that Eleventh Amendment immunity applied to a sheriff with respect to Defendants Craton and Gonzalez in their official capacities. See Scruggs v. Lee, 256 F. App'x 229, 232 (11th Cir. 2007) (finding that sheriff's deputies, as employees of the sheriff, "are also entitled to Eleventh Amendment immunity" with respect to § 1983 claims asserted against them in their official capacities).

In sum, Eleventh Amendment immunity bars Plaintiffs § 1983 claims asserted against Defendants Gulledge, Craton, and Gonzalez in their official capacities. The Court therefore grants the Motion to Dismiss as to those claims.

B. § 1983 Claims Against Defendants Paulding

County and Board Defendants Paulding County and Board argue that they cannot be held liable under § 1983 for the actions of "establishing and

implementing policy and procedure respecting pretrial detention and conditions of confinement"). Plaintiff concedes that Defendants Paulding County and Board are not liable under § 1983 for Defendants' actions. (Resp. Mot. Dismiss at 3.)4 The Court therefore grants this portion of the Motion to Dismiss.

C. State Law Claims

In any event, Defendants are correct that Defendants Paulding County and Board have no liability under § 1983 for the actions of the sheriff's office and its employees. Alternatively, Plaintiff's claims against Defendants Board and PCSD fail because Defendants Board and PCSD are not legal entities subject to suit. See Dean v. Barber, 951 F.2d 1210, 1214 (11th Cir. 1992) ("Sheriff's departments and police departments are not usually considered legal entities subject to suit"); Johnson v. Fulton Cty. Bd. of Comm'rs, Civil Action No. 1:07-CV-02663-RWS-RGV, 2008 WL 11334451, at *1 (N.D. Ga. May 13, 2008) (observing that county commissions "are not generally considered legal entities subject to suit" (internal quotation marks and citation omitted)), report and recommendation adopted, 2008 WL 11336376 (N.D. Ga. June 17, 2008). Error! Main Document Only.

Defendants also argue that sovereign immunity bars Plaintiff's state law claims asserted against Defendant Paulding County and Defendants Gulledge, Craton, and Gonzalez in their official capacities. For the following reasons, the Court agrees.

The Georgia Supreme Court has noted: The common law doctrine of sovereign immunity, adopted by this state in 1784, protected governments at all levels from unconsented-to legal actions. The doctrine was given constitutional status in 1974, but the state remained absolutely immune from suit until 1983 after voters approved an amendment to the State Constitution waiving the sovereign immunity of the "state or any of its departments and agencies" in actions for which liability insurance protection was provided. In 1991, the constitutional doctrine of sovereign immunity was amended to extend sovereign immunity "to the state and all of its departments and agencies," and Plaintiff did not explicitly respond to these arguments relating to his state law claims. (See generally Resp. Mot. Dismiss.)

Plaintiff simply stated: "State Law Claims may be reviewed in conjunction with Federal Law Claims." (Id. this immunity is to prevail except as specifically provided therein.) Gilbert v. Richardson, 264 Ga. 744, 745-76, 452 S.E.2d 476, 478 (1994) (citations and footnotes omitted). "The sovereign immunity of the state and its departments and agencies can only be waived by an Act of the General Assembly which specifically provides that sovereign immunity is thereby waived and the extent of such waiver." Ga. Const. of 1983, Art. I, § 2, ¶ IX(e). "Sovereign immunity . . . is not an affirmative defense, going to the merits of the case, but raises the issue of the trial court's subject matter jurisdiction to try the case." Dep't of Transp. v. Dupree, 256 Ga. App. 668, 671, 570 S.E.2d 1, 5 (2002). "[A]ny waiver [of sovereign immunity] must be established by the party benefitting from such waiver." Maxwell v. Cronan,

241 Ga. App. 491, 492, 527 S.E.2d 1, 2 (1999) (citation omitted). "The doctrine of sovereign immunity also applies to counties." Russell v. Barrett, 296 Ga. App. 114, 120, 673 S.E.2d 623, 628 (2009).

In 1992, the Georgia General Assembly enacted the Georgia Tort Claims Act (the "GTCA"), which is codified at 0.C.G.A. § 50-21-20, et seq. and which waives the State's sovereign immunity for the torts of its officers or employees. Gilbert, 264 Ga. at 747, 452 S.E.2d at 479. The GTCA, however, "expressly excludes counties from the ambit of this waiver." Id.; see also 0.C.G.A. § 50-21-22(5) (excluding counties from definition of "state" for purposes of GTCA); Currid v. DeKalb State Court Probation Dep't, 285 Ga. 184, 188, 674 S.E.2d 894, 897 (2009) ("The waiver of sovereign immunity contained in the [GTCA] does not apply to counties."). Thus, the GTCA does not waive Defendant Paulding County's sovereign immunity.

Admittedly, 0.C.G.A. § 33-24-51 waives sovereign immunity for certain claims against counties or municipalities arising from use of insured motor vehicles. 0.C.G.A. § 33-24- 51. Plaintiffs claims, however, do not arise from the use of a motor vehicle. Plaintiff also has not come forth with allegations showing that Defendant Paulding County waived its sovereign immunity by purchasing other insurance. Under those circumstances, Plaintiff has not successfully alleged that Defendant Paulding County waived its sovereign immunity, and sovereign immunity bars Plaintiffs state law claims against Defendant Paulding County. Similarly, sovereign immunity bars Plaintiff's state law claims against the

individual Defendants in their official capacities. Marshall v. McIntosh Cty., 327 Ga. App. 416, 419, 759 S.E.2d 269, 273 (2014). The Court therefore grants this portion of the Motion to Dismiss.

IV. Conclusion

ACCORDINGLY, the Court GRANTS the Motion to Dismiss [8], and DISMISSES Plaintiff's claims against Defendants Board, Paulding County, and PCSD, as well as Plaintiff's official capacity claims against Defendants Gulledge, Gonzalez, and Craton.

IT IS SO ORDERED, this the day of October, 2018.

SENIOR UNITED STATES DISRICT JUDGE

APPENDIX B

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

WILLIAM JOHNSON,

Plaintiff,

V.

COUNTY OF PAULDING, GEORGIA, BOARD OF COMMISSIONERS FOR PAULDING COUNTY, PAULDING COUNTY SHERIFF'S DEPARTMENT, SHERIFF GARY GULLEDGE, in his official and individual capacity, OFFICER AL GONZALEZ, in his official and individual capacity, AND MAJOR SHELIA CRATON, in her official and individual

capacity,

Defendants.

CIVIL ACTION FILE NO.

4:18-CV-0136-HLM

ORDER

Case 4:18-cv-00136-HLM Document 17 Filed 10/31/18 Page 1 of 28

This case is before the Court on the Motion for Summary Judgment filed by Defendants Sheriff Gary Gulledge ("Defendant Gulledge"), Officer Al Gonzalez ("Defendant Gonzalez"), and Major Shelia Craton ("Defendant Craton") [9].

I. Background

A. Factual Background

Keeping in mind that, when deciding a motion for summary judgment, the Court must view the evidence and all factual inferences in the light most favorable to the party opposing the motion, the Court provides the following statement of facts. Strickland v. Norfolk S. Ry. Co., 692 F.3d 1151, 1154 (11th Cir. 2012). This statement does not represent actual findings of fact. Rich v. Sec'y, Fla. Dep't of Corr., 716 F.3d 525, 530 (11th Cir. 2013). Instead, the Court has provided the statement simply to place the Court's legal analysis in the context of this particular case or controversy.

1. Initial Matters

As required by the Local Rules, Defendants Gulledge, Craton, and Gonzalez, as movants, filed a Statement of Material Facts ("DSMF"). (DSMF (Docket Entry No. 9-3).) As also required by the Local Rules, Plaintiff filed a response to DSMF ("PRDSMF"). (PRDSMF (Docket Entry No. 13).) Plaintiff, however, provided no citations to support his denials of DSMF, and the Court deems the statements in DSMF admitted to the extent that they are supported by evidence. See N.D. Ga. R. 56.1B(2)a.(2) ("This Court will deem each of the movant's facts as admitted unless the respondent: (i) directly refutes the movant's fact with concise responses supported by specific citations to evidence (including page or paragraph number).") ; see also Reese v. Herbert, 527 F.3d I Even pro se litigants must comply with the Local Rules. See Moss v. City of Atlanta Fire Dep't, Civil Action File No. 1:14-CV3 1253, 1269 (11th Cir. 2008) (explaining that, after the court deems a statement of undisputed facts admitted, it must review the citations to the record to determine whether there really is no genuine issue of material fact). The Court evaluates DSMF infra.

2. Plaintiff's Allegations

Plaintiff alleges that, on January 28, 2016, Defendant Gonzalez, an officer with Defendant PCSD, arrested Plaintiff "under the color of a Uniform Traffic Citation, Summons, and Accusation" from Defendant PSCD. (Compl. (Docket Entry No. 1) IT 12.) According to Plaintiff, Defendant Gonzalez "did not have probable cause to [arrest] Plaintiff." (Id. II 13.) Plaintiff asserts that Defendant Gonzalez arrested him "based [on] the testimony of a third party for a

traffic violation." (Id. ¶ 14.) Plaintiff complains that no Defendant PCSD agent applied for an arrest warrant for Plaintiff. (Id. II 15.) Plaintiff further alleges that no Defendant PCSD agent took him "before a judicial officer to make a determination of probable cause within a prompt period after the arrest." (Id. IT 16.)

Plaintiff contends that he "needlessly spent over six months in the Paulding County Jail under the assumed authority of solely a uniform traffic citation." (Id. 1117.) According to Plaintiff, all of the charges brought against him were dismissed on June 6, 2017. (Id. ¶ 18.)

Plaintiff claims that, while he was incarcerated, "Defendants obstructed and interfered with Plaintiff's attempts to file pleadings in Court." (Compl. ¶ 19.) Plaintiff further alleges that Defendant Board, Defendant Paulding County, Defendant PCSD, Defendant Gulledge, and Defendant Craton are "responsible and liable for training police officers of [Defendant PCSD] and Paulding County Jail to comply with State and Federal Law concerning the rights of individuals arrest[ed] or detained at the Paulding County Jail." (Id. ¶ 20.)

3. Factual Matters

On January 28, 2016, Plaintiff was arrested for driving under the influence ("DUI"). (Compl. IT 12.) On January 29, 2016, a judge issued a warrant for Plaintiff's arrest based on a violation of probation. (Docket Entry No. 9-1.) The warrant stated that Defendant had violated "condition #1: Do not violate the criminal laws of any governmental unit," and noted, "DEFENDANT COMMITTED THE OFFENSE

OF DUI ON OR ABOUT 01/28/16 IN PAULDING COUNTY, GEORGIA." (Id. at 1 (capitalization in original).) Thus, the arrest warrant for probation violation was based on the January 28, 2016 DUI incident.

In September 2016, Plaintiff entered into a consent order in the Superior Court of Spalding County, Georgia revoking his probation. (Docket Entry No. 9-2 at 1-2.) The consent order stated: "REVOKE 11 MONTHS TO THE COUNTY JAIL. TERMINATE REMAINING BALANCE CREDIT FOR TIME SERVED SINCE 01/28/16." (Id. at 1 (capitalization in original).)

B. Procedural Background

On June 5, 2018, Plaintiff, proceeding pro se, filed this action. (Docket Entry No. 1.) Plaintiff asserted several claims, including: (1) a First Amendment claim asserted under 42 U.S.C. § 1983 (Compl. ¶ 23); (2) a § 1983 Fourth Amendment false arrest claim (id. ¶ 24); (3) a § 1983 Fifth Amendment due process claim (id. ¶ 25); (4) a § 1983 Sixth Amendment due process claimed based on an alleged refusal by Defendants to permit Plaintiff "to obtain witnesses and confront accusers at a probable cause hearing" (id. ¶ 26); (5) a § 1983 Eighth Amendment claim contending that "Defendants were deliberately indifferent to the Constitutional and Statutory Rights of Plaintiff while incarcerated" by keeping Plaintiff incarcerated over six months "for a misdemeanor accusation, having set excessive bail so Plaintiff could not bond out [of] their jail" (id. II 27); (6) a § 1983 Fourteenth Amendment due process claim based on Defendants' allegedly keeping Plaintiff incarcerated

"for over six months without presenting him before a judicial officer for determination of probable cause" (id. If 28); (7) a state law claim for intentional infliction of emotional distress (id. IR 29); (8) a state law punitive damages claim (id. IR 30); (9) a state law claim for "other damages" (id. ¶ 31); and (10) an attorneys' fees claim (id. ¶ 32).

On September 20, 2018, Defendants Gulledge, Craton, and Gonzalez filed their Motion for Summary Judgment. (Mot. Summ. J. (Docket Entry No. 9).)2 The briefing process for that Motion is complete, and the Court finds that the matter is ripe for resolution.

C. Summary Judgment Standard

Federal Rule of Civil Procedure 56(a) allows a court to grant summary judgment when "there is no genuine dispute as to any material fact and the movant is entitled to a judgment as a matter of law." Fed. R. Civ. P. 56(a). The party seeking summary judgment bears the initial burden of showing the Court that summary judgment is appropriate and may satisfy this burden by pointing to materials in the record. Jones v. UPS Ground Freight, 683 F.3d 1283, 1292 (11th Cir. 2012). Once the moving party has supported its motion adequately, the burden shifts to the non-movant to rebut that showing by coming forward with specific evidence that demonstrates the existence of a genuine issue for trial. Id.

When evaluating a motion for summary judgment, the Court must view the evidence and draw all reasonable factual inferences in the light most favorable to the party opposing the motion. Morton v. Kirkwood, 707 F.3d 1276, 1280 (11th Cir. 2013);

Strickland, 692 F.3d at 1154. The Court also must "resolve all reasonable doubts about the facts in favor of the non-movant." Morton, 707 F.3d at 1 (internal quotation marks and citations omitted). Further, the Court may not make credibility determinations, weigh conflicting evidence to resolve disputed factual issues, or assess the quality of the evidence presented. Strickland, 692 F.3d at 1154. Finally, the Court does not make factual determinations. Rich, 716 F.3d at 530.

III. Discussion

A. § 1983 Claims

1. Statute of Limitations

Defendants Gulledge, Craton, and Gonzalez first argue that the statute of limitations bars Plaintiff's § 1983 Fourth Amendment false arrest claim, as well as his Fourth Amendment claim based on an alleged lack of a judicial probable cause determination. A two-year statute of limitations governs § 1983 claims in Georgia. Jones v. Union City, 450 F. App'x 807, 808-09 (11th Cir. 2011) (per curiam).

"[T]he statute of limitations for § 1983 claims begins to run when facts supporting the cause of action are or should be reasonably apparent to the claimant." Id. at 809. A Fourth Amendment false arrest claim accrues at the time of arrest. Id.; Parrish v. City of Opp, Ala., 898 F. Supp. 839, 842-43 (M.D. Ala. 1995).

A Fourth Amendment claim alleging that a plaintiff was detained without a judicial probable cause determination, or a "McLaughlin claim,"

accrues after fortyeight hours from the arrest. See County of Riverside v. McLaughlin, 500 U.S. 44, 56-57 (1991) (establishing a fortyeight-hour rule for probable cause determinations); Mullinax v. McElhenney, 817 F.2d 711, 716 (11th Cir. 1987) (noting that a § 1983 action will accrue when "the plaintiff knows or has reason to know that he has been injured").

Here, Plaintiff's arrest occurred on January 28, 2016, and his § 1983 false arrest claim accrued on that date. Plaintiff's McLaughlin claim accrued forty-eight hours later. Plaintiff, however, did not file this lawsuit until June 5, 2018, more than two years after his claims accrued. Plaintiff's § 1983 Fourth Amendment false arrest and McLaughlin claims are therefore time-barred. To support his contention that his false arrest and McLaughlin claims are timely, Plaintiff relies on Manuel v. City of Joliet, III., 137 S. Ct. 911 (2017). Manuel, however, does not help Plaintiff. First, that case did not involve a McLaughlin claim. Second, the Supreme Court did not rule on when the claim in that case accrued. See Manuel, 137 S. Ct. at 922 (leaving consideration of when the claim in the case accrued to the court of appeals).

2. False Arrest Claim

Defendants Gulledge, Craton, and Gonzalez also argue that Heck v. Humphrey, 512 U.S. 477 (1994), bars Plaintiff's § 1983 false arrest claim. (Br. Supp. Mot. Summ. J. at 3-5.) In Heck, the Supreme Court held that: when a state prisoner seeks damages in a § 1983 suit, the district court must consider whether a judgment in favor of the plaintiff would necessarily imply the invalidity of his conviction or

sentence; if it would, the complaint must be dismissed unless the plaintiff can demonstrate that the conviction or sentence has already been invalidated. 512 U.S. at 487.

The Supreme Court gave the following example of a § 1983 suit that would be barred: A state defendant is convicted of and sentenced for the crime of resisting arrest, defined as intentionally preventing a peace officer from effecting a lawful arrest. . . He then brings a § 1983 action against the arresting officer seeking damages for violation of his Fourth Amendment right to be free from unreasonable seizures. In order to prevail in this § 1983 action, he would have to negate an element of the offense of which he has been convicted. Regardless of the state law concerning res judicata the § 1983 action will not lie. Id. at 486 n.6 (citations omitted).

The Eleventh Circuit follows a similar rule, and it has observed that "as long as it is possible that a § 1983 suit would not negate the underlying conviction, then the suit is not Heckbarred." Dyer v. Lee, 488 F.3d 876, 879-80 (11th Cir. 2007).

Instead, "for Heck to apply, it must be the case that a successful § 1983 suit and the underlying conviction be logically contradictory." Id. at 884. "So long as 'there would still exist a construction of the facts that would allow the underlying [punishment] to stand,' a § 1983 suit may proceed." Dixon, 887 F.3d at 1238 (quoting Dyer, 488 F.3d at 880).

Here, Plaintiff was convicted for a probation violation, which, in turn, was based on the DUI incident that occurred on January 28, 2016. (Docket

Entry No. 9-2.) A successful § 1983 false arrest claim here would invalidate the basis for Plaintiff's probation violation, as Plaintiff argues that no probable cause existed to arrest him for DUI based on the January 28, 2016 incident. Heck therefore bars this claim. See Cobb v. Fla., 293 F. App'x 708, 709 (11th Cir. 2008) (per curiam) (concluding that the district court correctly dismissed a plaintiff's § 1983 action under Heck "because the necessary implication of a grant of relief would be that [the plaintiff's] probation revocation is invalid").

3. McLaughlin Claim

Defendants Gulledge, Craton, and Gonzalez next argue that the probation violation warrant bars Plaintiff's McLaughlin claim. On January 28, 2016, Plaintiff was arrested for DUI. On the following day, January 29, 2016, a judge issued an arrest warrant for Plaintiff based on probable cause that the January 28, 2016 DUI incident violated Plaintiff's probation. (Docket Entry No. 9-1).)

The Court agrees with Defendants Gulledge, Craton, and Gonzalez that the issuance of the probation arrest warrant satisfied the Fourth Amendment's requirement for a judicial probable cause determination to justify incarceration lasting more than forty-eight hours. See Gerstein v. Pugh, 420 U.S. 103, 126 (1975) (noting "that the Fourth Amendment requires a timely judicial determination of probable cause as a prerequisite to detention," but disagreeing that an adversary hearing was required").

4. First Amendment Claim

Plaintiff also asserts a § 1983 First Amendment claim for denial of access to the courts. Plaintiff did not specifically respond to Defendants' arguments concerning that claim, and he has abandoned the claim. See Burnette v. Northside Hosp., 342 F. Supp. 2d 1128, 1140 (N.D. Ga. 2004) ("Failure to respond to the opposing party's summary judgment arguments regarding a claim constitutes an abandonment of that claim and warrants the entry of summary judgment for the opposing party.").

Alternatively, Plaintiff's denial of access to the courts claim fails on its merits. "It is now clearly established that prisoners have a constitutional right of access to the courts." Barbour v. Haley, 471 F.3d 1222, 1225 (11th Cir. 2006). "That access must be adequate, effective, and meaningful." Cunningham v. District Atty's Office for Escambia Cty., 592 F.3d 1237, 1271 (11th Cir. 2010) (internal quotation marks and citation omitted).

Further, "to assert a claim arising from the denial of meaningful access to the courts, an inmate must first establish an actual injury." Barbour, 471 F.3d at 1225. "Actual injury may be established by demonstrating that an inmate's efforts to pursue a nonfrivolous claim were frustrated or impeded by a deficiency in the prison library or in a legal assistance program or by an official's action." Id.

A plaintiff asserting a claim for denial of access to the courts "must identify a nonfrivolous, arguable underlying claim." Christopher v. Harbury, 536 U.S. 403, 415 (2002) (internal quotation marks and citation omitted). "[T]he underlying cause of action, whether anticipated or lost, is an element that must be

described in the complaint, just as much as allegations must describe the official acts frustrating the litigation." Christopher, 536 U.S. at 415; see also Cunningham, 592 F.3d at 1271 ("The allegations about the underlying cause of action must be specific enough to give fair notice to the defendants and must be described well enough to apply the nonfrivolous test and to show that the arguable nature of the underlying claim is more than hope." (internal quotation marks and citation omitted)).

Plaintiff's Complaint simply alleges that "Defendants interfered with Plaintiff's efforts to file Court pleadings." This allegation is insufficient to state a viable denial of access to the courts claim. Specifically, Plaintiff failed to: (1) identify the nature of the substance of the litigation in which he wanted to file court papers; (2) indicate whether that litigation was non-frivolous; (3) specify the conduct by any named Defendant that allegedly interfered with that access; or (4) allege that there was some adverse consequence directly associated with a named Defendant's alleged interference with an attempted filing.

Plaintiff's attempt to cite to his earlier habeas action does nothing to warrant a different result. The Complaint therefore does not state a viable denial of access to the courts claim, and the Court grants the Motion for Summary Judgment as to that claim.

5. Fifth Amendment Claim

Plaintiff failed to respond to Defendants' arguments concerning his Fifth Amendment due process claim, and he therefore abandoned the claim.

Burnette, 342 F. Supp. 2d at 1140. Alternatively, this claim fails as a matter of law because Defendants are not federal actors. See Weiland v. Palm Beach Cty. Sheriff's Office, 792 F.3d 1313, 1328 (11th Cir. 2015) (noting that "[t]he Fifth Amendment is out because it protects a citizen's rights against infringement by the federal government, not by state government"). The Court therefore grants the Motion for Summary Judgment as to that claim.

6. Sixth Amendment Claim

Plaintiff also asserts a Sixth Amendment claim, alleging that he "was not allowed, by the Defendants to obtain witnesses and confront accusers at a probable cause hearing." (Compl. IT 26.) Plaintiff failed to respond Defendants' arguments concerning this claim, and he therefore abandoned the claim. Burnette, 342 F. Supp. 2d at 1140.

Alternatively, this claim fails on its merits. First, Plaintiff alleges that he did not receive a probable cause hearing. (Id. IT 16.) Plaintiff cannot claim that he was deprived of his right to present witnesses and confront accusers at a non-existent hearing. Second, Plaintiff had no right to an adversary probable cause hearing. Gerstein, 420 U.S. at 120. Third, the Complaint fails to allege plausible facts to show that the individual Defendants played any role in the hearing. Plaintiff's Sixth Amendment claim therefore fails, and the Court grants the Motion for Summary Judgment as to that claim.

7. Eighth Amendment Excessive Bail Claim

Plaintiff further alleges that his bail was excessive. (Compl. IT 27.) Plaintiff contends that "Defendants incarcerated Plaintiff for over six month[s] pre-trial for a misdemeanor accusation, having set excessive bail so Plaintiff could not bond out of jail." (Id.) Plaintiff failed to respond to Defendants' arguments concerning this claim, and he therefore abandoned the claim. Burnette, 342 F. Supp. 2d at 1140.

Alternatively, the claim fails on its merits because Plaintiff offered nothing other than a conclusory allegation to show that Defendants caused his excessive bail. See Rey v. Abrams, No. 7:14-CV-02205-RDP, 2015 WL 3839908, at *22 (N.D. Ala. June 22, 2015) ("Plaintiff's Eighth Amendment excessive bail claim necessarily fails because Plaintiff has offered nothing more than a conclusory statement that Defendants caused his excessive bail. As it relates to Plaintiff's Eighth Amendment excessive bail claim, Plaintiff's pleadings contain nothing more than a recitation of one of the elements of a cause of action (i.e., causation), and therefore the pleadings plainly fail to meet Rule 8 standards . . . . Plaintiff does not plead a factual predicate demonstrating that theDefendant Officers in anyway influenced any judicial officer's independent judgment in setting his bail." (internal quotation marks and citations omitted)). The Court therefore grants this portion of Defendants' Motion for Summary Judgment.

8. Fourteenth Amendment Due Process Claim

Plaintiff also asserts a due process claim under the Fourteenth Amendment, alleging that "[Of Plaintiff's allegations are proven, it would be

impossible not to be shocked by the defendants' actions." (Compll 28.) Plaintiff failed to respond to Defendants' arguments concerning this claim, and he therefore abandoned the claim. Burnette, 342 F. Supp. 2d at 1140.

Alternatively, the claim fails on its merits. The Complaint's allegations relate to Plaintiff's claims for false arrest, improper detention, alleged denial of a hearing, denial of access to the courts, and excessive bail. The Fourteenth Amendment due process claim is simply a reiteration of Plaintiff's other claims, which are covered under other constitutional provisions. Under those circumstances, Plaintiffs Fourteenth Amendment due process claim is duplicative. See Albright v. Oliver, 510 U.S. 266, 273 (1994) ("Where a particular Amendment provides an explicit textual source of constitutional protection against a particular sort of government behavior, that Amendment, not the more generalized notion of substantive due process, must be the guide for analyzing these claims." (internal quotation marks and citation omitted)); Sims v. Glover, 84 F. Supp. 2d 1273, 1287-88 (M.D. Ala. 1999) (dismissing a substantive due process claim because it was "redundant of the rights guaranteed by the more specific text of the Fourth Amendment"). Plaintiff's Fourteenth Amendment substantive due process claim therefore fails as a matter of law, and the Court grants the Motion for Summary Judgment as to that claim.

9. Summary

In sum, the Court concludes that all of Plaintiff's § 1983 claims fail as a matter of law. Given this conclusion, the Court need not, and does not,

address qualified immunity. The Court therefore grants the Motion for Summary Judgment as to those claims.

To the extent that Plaintiff seeks punitive damages under § 1983 or attorneys' fees under 42 U.S.C. § 1988, those claims fail in the absence of any, viable underlying claim. See Estes v. Tuscaloosa Cty., Ala 696 F.2d 898, 901 (11th Cir. 1983) ("Section 1988 authorizes attorney's fees as part of a remedy for violations of civil rights statutes; it does not create an independent right of action."); Lipsdomb v. Cronic, Civil Action No. 2:11-CV-78- RWS, 2011 WL 6755198, at *13 (N.D. Ga. Dec. 22, 2011) (dismissing a punitive damages claim as derivative of the plaintiff's tort claim); Schudmak v. Bossetta, No. Civ. A. 05-5194, 2006 WL 151928, at *2 (E.D. La. Jan. 19, 2006) (observing that a § 1983 punitive damages claim was derivative of the underlying § 1983 takings claim).

B. State Law Claims

Plaintiff's Complaint also fails to state viable state law claims against Defendants in their individual capacities. First, Plaintiff's claim for intentional infliction of emotional distress is simply a recitation of the elements of that cause of action, which is not sufficient to state a viable claim for relief. Ashcroft v. lqbal, 556 U.S. 662, 678 (2009).

Second, Plaintiff's claims for attorneys' fees and punitive damages fail in the absence of any viable underlying claim. See D.G. Jenkins Homes, Inc. v. Wood, 261 Ga. App. 322, 325, 582 S.E.2d 478, 482 (2003) ("The derivative claims of attorney's fees and punitive damages will not lie in the absence of a

finding of compensatory damages on an underlying claim."). The Court therefore concludes that summary judgment is appropriate on Plaintiff's state law claims.

IV. Conclusion

ACCORDINGLY, the Court GRANTS the Motion for Summary Judgment [9], and DISMISSES Plaintiff's claims against Defendants Gulledge, Gonzalez, and Craton. As this Order resolves all of Plaintiff's remaining claims, the Court DIRECTS the Clerk to CLOSE this case.

IT IS SO ORDERED, this the day of October, 2018.

SENIOR UNITED STATES' DISTRICT JUDGE

APPENDIX C

[DO NOT PUBLISH]
IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 18-14994
Non-Argument Calendar

D.C. Docket No. 4:18-cv-00136-HLM
WILLIAM JOHNSON,
Plaintiff-Appellant,
versus
COUNTY OF PAULDING, GEORGIA,
BOARD OF COMMISSIONERS FOR PAULDING COUNTY,
PAULDING COUNTY SHERIFF'S DEPARTMENT,
SHERIFF GARY GULLEDGE,
in his official and individual capacity,
OFFICER AL GONZALEZ,
in his official and individual capacity,
MAJOR SHELIA CRATON,
in her official and individual capacity,
Defendants-Appellees.

Appeal from the United States District Court
for the Northern District of Georgia

(July 12, 2019)
Case: 18-14994 Date Filed: 07/12/2019 Page: 1 of 7
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Before MARCUS, BRANCH and GRANT, Circuit Judges.
PER CURIAM:

William Johnson, proceeding pro se, appeals the district court's orders granting the defendants' motion to dismiss and motion for summary judgment dismissing his ten-count § 1983 complaint, which sought relief for violations of his First, Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendment rights for being illegally arrested without probable cause, jailed, and charged with crimes he did not commit.

On appeal, Johnson argues that: (1) his false arrest claim and McLaughlin claim were not barred by the statute of limitations because the limitations period began to run after he was released from pre-trial custody (Cty. of Riverside v. McLaughlin, 500 U.S. 44 (1991) (requiring a judicial probable cause hearing within 48 hours of arrest)).; (2) his false arrest claim was not barred by Heck v. Humphrey, 512 U.S. 477 (1994); (3) a judicial officer never made a probable cause determination for his probation warrant, for purposes of his McLaughlin claim; and (4) his First Amendment claim is documented in the trial court pleadings and his habeas corpus action.

After careful review, we affirm.

We review summary judgment decisions de novo, viewing the facts and inferences in the light most favorable to the non-moving party. United States v. One Piece of Real Prop. Located at 5800 SW 74th Ave., Miami, Fla., 363 F.3d 1099, 1101 (11th Cir. 2004). Summary judgment should be granted only if "there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a).

Once the movant satisfies its initial burden of demonstrating the absence of a genuine issue of material fact, the burden shifts to the nonmovant to

"come forward with specific facts showing that there is a genuine issue for trial." Allen v. Tyson Foods, Inc., 121 F.3d 642, 646 (11th Cir. 1997) (quotation omitted). "A mere scintilla of evidence supporting the [nonmoving] party's position will not suffice." Id. (quotation omitted).

We will not consider an issue not raised in the district court and raised for the first time on appeal. See Access Now, Inc. v. Sw. Airlines Co., 385 F.3d 1324, 1331 (11th Cir. 2004). In addition, "the law is by now well settled in this Circuit that a legal claim or argument that has not been briefed before the court is deemed abandoned and its merits will not be addressed." Id. at 1330; Mesa Air Grp., Inc. v. Delta Air Lines, Inc., 573 F.3d 1124, 1130 n.7 (11th Cir. 2009) (holding that an argument not made in the initial brief is waived).

First, we are unpersuaded by Johnson's claim that the district court erred in granting summary judgment as to Johnson's false arrest and McLaughlin claims on statute-of-limitations grounds. All constitutional claims brought under 42 U.S.C. § 1983 are subject to the statute of limitations governing personal injury actions in the state where the § 1983 action has been brought. Powell v. Thomas, 643 F.3d 1300, 1303 (11th Cir. 2011). In Georgia, actions for injuries to the person shall be brought within two years after the right of action accrues. Ga. Code § 9-3-33 (2010). The statute of limitations for claims brought under § 1983 begins to run when facts supporting the cause of action are or should be reasonably apparent to the claimant. Brown v. Ga. Bd. of Pardons & Paroles, 335 F.3d 1259, 1261 (11th Cir. 2003) (per curiam).

Fourth Amendment false arrest claims brought pursuant to § 1983 accrue when the claimant is detained pursuant to a legal process, not later upon his release from custody. Wallace v. Kato, 549 U.S. 384, 389-91 (2007). Additionally, the Fourth Amendment requires that judicial determinations of probable cause must be conducted within 48 hours of a warrantless arrest. McLaughlin, 500 U.S. at 56.

Here, Johnson alleged that he was falsely arrested for driving under the influence ("DUI") on January 28, 2016. This means that Johnson would have been detained by legal process on January 28, 2016, and that it would have been apparent to him that he potentially had a false arrest claim on January 28, 2016. See Kato, 549 U.S. at 391; Brown, 335 F.3d at 1261. Because Johnson did not bring this action until June 5, 2018, his false arrest claim was raised outside of the two-year statute of limitations. See Ga. Code § 9-3-33 (2010).

As for his McLaughlin claim, the case law provides that if Johnson was arrested without a warrant, then he was entitled to a judicial probable cause determination within 48 hours of his arrest. See McLaughlin, 500 U.S. at 56. Since he was arrested on January 28, 2016, it would have been apparent to Johnson that he potentially had a McLaughlin claim on January 30, 2016. Because Johnson did not bring this action until June 5, 2018, his McLaughlin claim also was raised outside of the two-year statute of limitations. See Ga. Code § 9-3-33 (2010). Thus, the district court did not err in holding that the statute of limitations barred both of these claims.

Nor do we find any merit to Johnson's argument that the district court erred in rejecting his First Amendment claim. "It is now clearly established that prisoners have a constitutional right of access to the courts," which requires prison authorities to assist inmates in the preparation and filing of meaningful legal papers by providing adequate law libraries or adequate assistance from persons trained in the law. Barbour v. Haley, 471 F.3d 1222, 1225 (11th Cir. 2006) (citation omitted).

To assert an access-to-the-courts claim, an inmate must first establish an actual injury. Lewis v. Casey, 518 U.S. 343, 348-49 (1996). "At the summary judgment stage, general factual allegations of injury will not suffice; rather, the plaintiff must set forth by affidavit or other evidence specific facts, which for purposes of the summary judgment motion will be taken to be true." Barbour, 471 F.3d at 1225 (quotations omitted).

Further, a party's appellate brief may not incorporate by reference arguments made in other pleadings so as to have us "ferret out and review any and all arguments," to assess which ones may have merit. Four Seasons Hotels & Resorts, B.V. v. Consorcio Barr S.A., 377 F.3d 1164, 1167, n.4 (11th Cir. 2004) (holding that mere citation to and incorporation of documents filed in the district court does not comply with the various Federal Rules of Appellate Procedure).

Here, Johnson's pleadings in the district court and this Court are insufficient to maintain his First Amendment claim. Our case law is clear that at the summary judgment stage, "the plaintiff must set forth by affidavit or other evidence specific facts, which for purposes of the summary judgment motion

will be taken to be true," Barbour, 471 F.3d at 1225 (quotations omitted), and if the plaintiff "come[s] forward with specific facts showing that there is a genuine issue for trial," summary judgment should be denied. Allen, 121 F.3d at 646 (quotation omitted).

As the record reflects, Johnson responded to the defendants' summary judgment arguments concerning his First Amendment claim by saying only that his habeas corpus action stated sufficient evidence to support his claim, without providing any of the relevant evidence. This response -- which included no specific facts whatsoever -- failed to satisfy Johnson's burden of demonstrating to the district court that summary judgment was not warranted. Barbour, 471 F.3d at 1225; Allen, 121 F.3d at 646.

Moreover, in his brief in this Court, Johnson failed to brief the issue on appeal or raise any argument as to how the district court erred in its grant of summary judgment. See Access Now, Inc., 385 F.3d at 1330. We add that Johnson abandoned his right to appeal the district court's dismissal of claims against County of Paulding, Georgia, Board of Commissioners for Paulding County, Paulding County Sheriff's Department, and the individual defendants in their official capacity based on Eleventh Amendment sovereign immunity, his Fifth, Sixth, Eighth and Fourteenth Amendment claims, and state law claims. This is because he failed to provide argument on the issues in his initial brief. See Access Now, 385 F.3d at 1330; Mesa Air Grp., 573 F.3d at 1130 n.7.

Accordingly, we affirm.

Case: 18-14994 Date Filed: 07/12/2019

AFFIRMED.

APPENDIX D

Case: 18-14994 Date Filed: 10/04/2019 Page: 1 of 1

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 18-14994-AA

WILLIAM JOHNSON,

Plaintiff – Appellant,

versus

COUNTY OF PAULDING, GEORGIA,

BOARD OF COMMISSIONERS FOR PAULDING COUNTY,

PAULDING COUNTY SHERIFF'S DEPARTMENT,

SHERIFF GARY GULLEDGE,

in his official and individual capacity,

OFFICER AL GONZALEZ,

in his official and individual capacity,

MAJOR SHELIA CRATON,

in her official and individual capacity,

Defendants – Appellees.

Appeal from the United States District Court

for the Northern District of Georgia

ON PETITION(S) FOR REHEARING AND PETITION(S) FOR REHEARING EN BANC

BEFORE: MARCUS, BRANCH, and GRANT, Circuit Judges.

PER CURIAM:

The Petition for Rehearing En Banc is DENIED, no judge in regular active service on the Court having requested that the Court be polled on rehearing en banc. (FRAP 35) The Petition for Rehearing En Banc is also treated as a Petition for Rehearing before the panel and is DENIED. (FRAP 35, IOP2)

ENTERED FOR THE COURT:

UNITED STATES CIRCUIT JUDGE

ORD-42