

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION**

DARRION WILLIAMS,	:	
	:	
Plaintiff,	:	
	:	
v.	:	No. 5:22-CV-00376-TES-CHW
	:	
Warden JOSEPH POLITE, et al.,	:	Proceedings Under 42 U.S.C. § 1983
	:	Before the U.S. Magistrate Judge
	:	
Defendants.	:	
	:	

REPORT AND RECOMMENDATION

Before the Court is a Motion for Summary Judgment filed by Defendants Joseph Polite, Joe Williams, George Ball, Heather Turner, Horne, Timothy Williams,¹ Watkins, and Douglas. (Doc. 44). Plaintiff has presented sufficient evidence to establish genuine issues of material fact to support his claims of excessive force and failure to intervene against Defendants Horne, Timothy Williams, Watkins, and Douglas, but he has not established a genuine issue of material fact as to supervisory liability against Defendants Polite, Ball, and Joe Williams. For these reasons, it is **RECOMMENDED** that the Defendants' motion for summary judgment (Doc. 44) be **GRANTED, in part, and DENIED, in part.**

BACKGROUND

Plaintiff filed his complaint on October 13, 2022. (Doc. 1). After screening, Plaintiff's claims of excessive force in violation of the Eighth Amendment, failure to intervene, and supervisory liability based upon the excessive force claim were allowed to proceed for further factual development. (Doc. 9). Defendants Ball, Polite, and Joe Williams filed their answer on

¹ Plaintiff did not clarify Defendant Williams' first name in his initial complaint, but the incident report submitted by Defendants indicates that Williams' first name is Timothy. For the purposes of this Recommendation, Defendants Timothy Williams and Joe Williams will be referenced by their full names.

August 3, 2023. (Doc. 36). Defendants Douglas, Horne, Turner, Watkins, and Timothy Williams filed their answer on September 12, 2023. (Doc. 41). Defendants filed their motion for summary judgment on January 9, 2024. (Doc. 44). Plaintiff responded on February 9, 2023, and Defendants filed a reply brief on February 26, 2024. (Docs. 46; 47).

RELEVANT FACTS

Plaintiff is an inmate in the Special Management Unit (“SMU”) at the Georgia Diagnostic and Classification Prison. (Docs. 44-3 ¶ 2; 46 ¶ 1). In his statement of facts in opposition to the motion for summary judgment, Plaintiff states that he was pepper sprayed while taking a shower at the SMU on August 5, 2022, and was later beaten while restrained in handcuffs and shackles. (Docs. 46 ¶ 3; 46-1 at 2). At his deposition, Plaintiff testified about the incident in some detail:

Well, I was sprayed – pepper sprayed first in the shower, then after I got pepper sprayed, they took me out my cell – I mean took me out the shower and they took me to my cell in nothing but my underwear, and once I got in my room, they closed the door, but they opened it back up. I guess because of the cameras – the cameras that was right in front of my cell in E Wing.

I could hear them – I heard them have a plan, like, they wanted to – I guess they wanted to jump on me in my room, but they seen the cameras right there, so they took me out of my cell again and took me to a blind spot where there wasn’t any cameras, and then that’s when they jumped on me.

And I’m in shackles like I am now. Like everywhere we go, we in shackles. Leg shackles and hand handcuffed behind my back, so they jumped on me while I was in handcuffs. Split my eye, my left eye. I got a scar over my left eyebrow and under my left eye. So yeah, that’s what happened.

(Doc. 44-2, pp. 16-17).

The showers at the SMU were “secure,” such that Plaintiff posed no threat of immediate harm towards others, which made the use of a chemical agent unnecessary. (Doc. 46, ¶ 4). In

his deposition testimony, Plaintiff clarified that after he was pepper sprayed he was taken to his cell for “no longer than two minutes” (Doc. 44-2, p. 19), then was taken to the medical unit, where the officers “jumped on him.” (Doc. 44-2, p. 20).

While it is not clear from Plaintiff’s statement of facts which Defendants did what, he does clarify that “Defendants Horne, T. Williams, among many others who[se] name[s] I never grasped, did in fact act maliciously and sadistically applying the use of unnecessary . . . excessive force . . . [w]hile the rest of [the] defendants fall in the same line as ‘the deliberate indifference.’” (Doc. 46, ¶ 13). In his deposition, Plaintiff testified that it was Officer Horne who punched him in the medical unit. (Doc. 44-2, pp. 31-32). He further states that Defendants Timothy Williams, Watkins, and Douglas also “jumped on” him. (*Id.*, pp. 33-34).

A nurse, Ronnie Fuller Reaves, was not allowed by Defendants to enter Plaintiff’s room in the medical ward until after they had beaten him there. (Doc. 46, ¶ 12). As Plaintiff testified at his deposition:

When the nurse came in after they jumped on me and seen all the blood and asked what happened or whatnot, like he ain’t know what happened, but it was evident what happened.

So the nurse looked at me and looked at my eye. He was telling them I need stitches and they ignored him – they ignored him and told him – they was like, “Oh, we ain’t got time for all that.” Like, the nurse put Steri-Strips – so after they rinsed my face, they put me on the sink for, like, two minutes. Get all the blood out my eyes.

So then the nurse put Steri-Strips on my eye, but he was telling them I needed stiches, but they ignored him. Like they – the overruled what he – what he told – what he told them. He was like, “He need stiches,” but they – they ignored him.

(Doc. 44-2, p. 21).

In addition to his claims against the IRT team officers, Plaintiff seeks to bring claims against Warden Joseph Polite, deputy warden Joe Williams, deputy warden Ball, and unit manager Turner. Plaintiff does not contend that the supervisory defendants participated in the beating, but testified that Defendants Polite, Ball, and Joe Williams “came around for inspection and all of the next day, and they seen my eye, and I was telling them what happened, they ignored me ... they didn’t take action.” (*Id.*, p. 40). Plaintiff testified that Warden Polite directed him to file a grievance. (*Id.*, p. 43). Plaintiff further testified that unit manager Turner “did nothing” in response to his complaints. (*Id.*, p. 45).

Plaintiff has also submitted medical records from Wellpath dated August 6, 2022. (Doc. 46-2). These records are consistent with Plaintiff’s testimony and inconsistent with Defendants’ statement of material facts. The medical records, signed by RN Ronnie Fuller-Reaves, state:

Patient alert and oriented respirations even and unlabored on room air no acute distress noted. Patient ambulatory with handcuffs to rear. Patient has red-orange colored substance on his face and chest. Patient has small amount of bleeding above left eye. Small cut to brow area. Patient has moderate amount of mucus to nose. Patient otherwise in no distress.

Ongoing monitoring and treatment when necessary if patient needs treatment. Steri strip applied to eyebrow area above left eye. Patient otherwise appears to be ok WNL for patient as writer has observed patient before.

(*Id.*, p. 3).

Defendants dispute much of Plaintiff’s testimony but offer little, if any, evidence to support their version of events. In their statement of material facts, Defendants contend that a female correctional officer witnessed Plaintiff expose himself (in the shower) by having his penis out and in his hand. (Doc. 44-3 ¶ 4). The officer called for assistance and several members of the prison’s Incident Response Team (“IRT”) arrived at the scene. (*Id.*). Plaintiff was ordered to submit to being handcuffed but refused. (*Id.* ¶ 5). IRT officers used one burst of pepper spray

while attempting to make Plaintiff comply with orders. (*Id.* ¶ 6). Plaintiff was handcuffed and taken to the medical unit before being cleared to return to his dorm. (*Id.* ¶ 7). Plaintiff was issued a disciplinary report for indecent exposure. (*Id.* ¶ 8).

Defendants have not submitted affidavits or sworn testimony from any of the Defendants or other witnesses to the incidents, nor have they submitted medical records. Defendants have merely submitted an incident report that was prepared on August 18, 2022, which acknowledges the use of pepper spray but does not mention any physical assault. (Doc. 44-1). The incident report concludes:

While conducting showers in E-Dorm officer Laster the West Control room officer saw inmate Williams, Darrion GDC#1241410 with his exposed penis in his hand in the shower flap. She then called for assistance IRT Douglas, Jeremy/Williams, Timothy and Foster, Jared responded. Inmate Williams was instructed to come to the flap to be handcuffed and he refused. Then one burst of OC spray was deployed by ofc. Douglas then inmate Williams was handcuffed and escorted to medical by ofc. Foster and Williams. [H]e was then cleared and returned back to cell E210. Cameras was not used because they were not charged.

(*Id.*, p. 3).

As the incident report notes, there is no video evidence of the uses of force because cameras “were not charged.” The incident report which appears to have been generated by Defendant Douglas, who also participated in the use of force. Nothing in this incident report indicates the source to the eye injuries noted in Plaintiff’s medical records, and there is no affidavit or testimony from the nurse who prepared the report.

SUMMARY JUDGMENT STANDARD

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, summary judgment is proper “if the movant shows that 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). The party moving for summary

judgment bears the burden of informing the Court of the basis for its motion, and of citing “the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any,” that support summary judgment. *Celotex Corp. v. Catrett*, 477 U.S. 317, 322–24 (1986). In resolving motions for summary judgment, the Court must view the evidence in the light most favorable to the non-moving party. *Tolan v. Cotton*, 134 S.Ct. 1861, 1866 (2014).

ANALYSIS

Defendants move for summary judgment on the basis that (1) Plaintiff has not established an Eighth Amendment claim against Defendants Horne and Timothy Williams; (2) Plaintiff has not established a failure to intervene claim against Defendants Watkins and Douglas; and (3) Defendants Watkins, Douglas, Polite, Joe Williams, Ball, Turner, and Watkins cannot be held liable for Plaintiff’s Eighth Amendment claims; and (3) Defendants are entitled to qualified immunity.

Review of the record shows that there is sufficient evidence to create genuine issues of material fact as to Plaintiff’s claims against Defendants Horne, Timothy Williams, Watkins and Douglas for excessive use of force in violation of the Eighth Amendment. The evidence is insufficient, however, to support any claim against the supervisory defendants, Polite, Ball, and Joe Williams.

1. *Plaintiff has established an Eighth Amendment claim against Defendants Horne and Timothy Williams*

Plaintiff claims Defendants Horne and Timothy Williams used excessive force against him in violation of the Eighth Amendment when they beat him in the medical unit. (Doc. 1-1 at 3-4). “The Eighth Amendment’s proscription cruel and unusual punishments also governs prison officials’ use of force against convicted inmates.” *Campbell v. Sikes*, 169 F.3d 1353, 1374 (11th

Cir. 1999). A claim of excessive force in violation of the Eighth Amendment requires both a subjective and objective showing by the plaintiff. The plaintiff must show that the defendant acted with a malicious and sadistic purpose to inflict harm to satisfy the subjective component, and he must show that “the alleged wrongdoing was objectively ‘harmful enough’ to establish a constitutional violation” to satisfy the objective component. *Hudson v. McMillian*, 503 U.S. 1, 6-8 (1992) (citing *Wilson v. Seiter*, 501 U.S. 294, 303 (1991)).

“The ‘core judicial inquiry’ for an Eighth Amendment excessive-force claim in a prison setting is ‘whether force was applied in a good-faith effort to maintain or restore discipline, or maliciously and sadistically to cause harm.’” *Williams v. Rickman*, 759 F.App’x. 849, 852 (11th Cir. 2019) (quoting *Wilkins v. Gaddy*, 559 U.S. 34, 37 (2010)). When “determining whether the force was applied maliciously and sadistically to cause harm, courts consider: ‘a) the need for the application of force; b) the relationship between the need and the amount of force that was used; c) the extent of the injury inflicted upon the prisoner; d) the extent of the threat to the safety of staff and inmates; and e) any efforts made to temper the severity of a forceful response.” *Bowden v. Stokely*, 576 F. App’x. 951, 953 (11th Cir. 2014) (quoting *Fennell v. Gilstrap*, 559 F.3d 1212, 1217 (11th Cir. 2009)). A “wide range of deference” is given “to prison officials acting to preserve discipline and security, including when considering decisions made at the scene of a disturbance.” *Id.*

In this case, it is undisputed that Defendants Douglas and Timothy Williams used pepper spray on Plaintiff in response to a report that he had exposed his penis while in the shower, as is acknowledged in the incident report. (Doc. 44-1). Plaintiff has testified that the officers “told me ... turn around and cuff up, and as soon as I said, ‘For what?’ they just sprayed me.” (Doc. 44-2, p. 18). Defendants have offered no evidence whatsoever to refute this testimony. Defendant has

also testified that Defendant Horne punched him while he was handcuffed on the table in the medical unit, while Defendants Timothy Williams, Watkins, and Douglas either stood by or also “jumped on” Plaintiff. This testimony is corroborated by the medical record submitted by Plaintiff, which show that the nurse observed a cut above his left eye that was still bleeding. Again, Defendants have offered no actual, admissible evidence to refute this testimony.

As to the pepper spray incident, there are genuine issues of material fact as to whether any use of force was warranted. Defendants contend that they were responding to a report that Plaintiff had exposed his penis while in the shower. Whether Plaintiff’s exposure in the shower included lewd activity or other aggravating factors is unclear from the record. Even if Plaintiff’s behavior in the shower was sufficient to warrant a response from the IRT, Plaintiff’s testimony indicates that Defendants pepper-sprayed him without giving him an opportunity to comply with their demand that he submit to being handcuffed. Plaintiff’s testimony is not contradicted by any evidence submitted by Defendants. Based on the evidence currently in the record, no reasonable finder of fact could determine that there was a need for a use of force, that the force applied was reasonably related to any need, that there was any threat to officers or other inmates, or that there was any effort to temper the severity of the response.

As to the use of force in the medical unit, Plaintiff’s testimony is also unrefuted by any evidence from the Defendants. Plaintiff’s testimony, corroborated by the medical records, is sufficient to establish, at least as a genuine issue of material fact, that Defendant Horne punched Plaintiff in the face while he was restrained and seated on a table, posing no threat to anyone and not resisting any commands, and that Defendants Timothy Williams, Watkins, and Douglas either stood by or participated in the use of force. Again, on this evidence, accepted as true, no reasonable finder of fact could determine that force was there was a need for a use of force, that

the force applied was reasonably related to any need, that there was any threat to officers or other inmates, or that there was any effort to temper the severity of the response.

2. *The remaining Defendants cannot be held liable for Plaintiff's Eighth Amendment claim*

Plaintiff claims that the supervisory Defendants – Polite, Joe Williams, Ball, and Turner – were made aware of the IRT members' assaults of prisoners and other abuses through reports from prisoners and Plaintiff himself. (Doc. 1-1 at 3). At screening, this was liberally construed as a claim that these Defendants had actual knowledge of their subordinates repeated unlawful behavior and failed to stop them. (Doc. 9). Supervisory officials are not liable for the unconstitutional acts of their subordinates under § 1983 unless they personally participated in unconstitutional conduct or there was a causal connection between their actions and the alleged constitutional violation. *Cotton v. Jenne*, 326 F.3d 1352, 1360 (11th Cir. 2003). A causal connection can only be shown where (1) "a history of widespread abuse puts the responsible supervisor on notice of the need to correct the alleged deprivation and he fails to do so;" (2) "the supervisor's improper custom or policy leads to deliberate indifference to constitutional rights;" or (3) "facts support an inference that the supervisor directed the subordinates to act unlawfully or knew that the subordinates would act unlawfully and failed to stop them from doing so." *Hendrix v. Tucker*, 535 F. App'x. 803, 805 (11th Cir. 2013).

Plaintiff's claim that Defendants ignored complaints from prisoners fails to establish an appropriate claim of supervisor liability under § 1983. "The deprivations that constitute widespread abuse sufficient to notify the supervising official must be obvious, flagrant, rampant, and of continued duration, rather than isolated occurrences." *Hartley v. Parnell*, 193 F.3d 1263, 1269 (11th Cir. 1999). Plaintiff does not sufficiently allege or establish with evidence that

Defendants were informed of anything beyond isolated occurrences conveyed in prisoner complaints, primarily those contained in grievances. Prisoner grievances have been found not to establish subjective knowledge on the part of an official sufficient to establish liability under § 1983. *See Smith v. Prine*, No. 7:09-CV-153 (HL), 2012 WL2308639, at *4 (M.D. Ga. May 2, 2012); *Nichols v. Burnside*, No. 5:11-CV-116 (MTT), 2011 WL 2036709, at *3 (M.D. Ga. Apr. 21, 2011). Plaintiff's allegations and testimony do not provide evidence of any improper custom or policy on the part of the remaining Defendants or indicate that these Defendants directed their subordinates or knew that they would act unlawfully in this instance and failed to stop them from doing so. Plaintiff provides no detailed argument or testimony regarding these Defendants in his response beyond his testimony that he complained to the supervisory defendants about the incident and that they failed to respond to his grievance.

Accordingly, Plaintiff has failed to show that a genuine issue of material fact exists as to supervisory liability on the parts of Defendants Polite, Joe Williams, Ball, and Turner.

3. *Qualified immunity bars Plaintiff's claims against Defendants Polite, Joe Williams, Ball and Turner, but does not apply to Defendants Horne, Timothy Williams, Watkins or Douglas*

"Qualified immunity protects government officials if their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." *Nam Dang v. Sheriff, Seminole Cnty., Fla.*, 871 F.3d 1272, 1278 (11th Cir. 2017) (internal citation omitted). "A government actor can be stripped of qualified immunity only when all reasonable government actors in the defendant's place would know that the challenged discretionary conduct violates federal law." *Adams v. Poag*, 61 F.3d 1537, 1543 (11th Cir. 1995) (citations omitted). "To be entitled to qualified immunity, a public official 'must first prove that

he was acting within the scope of his discretionary authority when the allegedly wrongful acts occurred.” *Nam Dang* 871 F.3d at 1279. “An official acts within his discretionary authority if his actions (1) were undertaken ‘pursuant to the performance of his duties,’ and (2) were ‘within the scope of his authority.’” *Id.* (quoting *Rich v. Dollar*, 841 F.2d 1558, 1564 (11th Cir. 1988)).

Plaintiff’s allegations all pertain to Defendants’ actions in the course of their duties as prison officials. Plaintiff did not address Defendants’ qualified immunity argument. Therefore, the Court concludes that Defendants have shown they were acting within their discretionary authority at the relevant times and are eligible to assert qualified immunity.

After a defendant establishes that he was acting within his discretionary authority, “the burden shifts to the plaintiff to show that qualified immunity is not appropriate.” *Myrick v. Fulton Co., Ga.*, 69 F.4th 1277, 1297 (11th Cir. 2023). A plaintiff fulfills this burden by showing that (1) the facts, viewed in the light most favorable to the plaintiff, show that the defendant’s conduct violated a constitutional right, and (2) that the violated right was clearly established at the time of the alleged violation. *Id.* (citing *Ashcroft v. al-Kidd*, 563 U.S. 731, 735 (2011)). These two elements may be addressed in any order, and if the plaintiff fails to show one is fulfilled, the Court need not reach the other. *Id.*

As discussed above, Plaintiff has not established a constitutional violation on the parts of Defendants Polite, Joe Williams, Ball, or Turner. Accordingly, these Defendants are entitled to qualified immunity.

Plaintiff has established a genuine issue of material fact as to whether Defendants Horne, Timothy Williams, Watkins, and Douglas used excessive force in violation of the Eighth Amendment or failed to intervene against such excessive force in violation of the Eighth Amendment. “[I]n Eighth Amendment cases, where the plaintiff has sufficiently alleged or

shown a material dispute of fact as to an excessive force claim, summary judgment based on qualified immunity is not appropriate.” *Bowden*, 576 F. App’x. at 955 (citing *Skrnich v. Thornton*, 280 F.3d 1295, 1301 (2002) (overruled on other grounds by *Pearson v. Callahan*, 555 U.S. 223 (2009))). Because Plaintiff has sufficiently shown a material dispute of fact regarding the excessive force claim against Defendants Horne and Timothy Williams, they are not entitled to qualified immunity. Similarly, because Plaintiff has established a genuine issue of material fact as to Defendants Watkins and Douglas’s presence in the vicinity of the excessive force, where they either failed to intervene or engaged in excessive force themselves, these Defendants are also not entitled to qualified immunity. *See id*; *see also Priester v. Cty. of Riviera Beach, Fla.*, 208 F.3d 919, 927 (11th Cir. 2000) (“That a police officer had a duty to intervene when he witnessed the use of excessive force and had the ability to intervene was clearly established in February 1994”).

CONCLUSION

Because the undisputed facts do not support Plaintiff’s supervisory liability claims and because Defendants are entitled to qualified immunity, it is **RECOMMENDED** that Defendants’ motion for summary judgment (Doc. 44) be **GRANTED** as to Plaintiff’s claims against Defendants Polite, Joe Williams, Ball, and Turner. Because there exist genuine issues of material fact as to Plaintiff’s claims of excessive force and failure to intervene, and because the Defendants against whom those claims are raised are not entitled to qualified immunity, it is **RECOMMENDED** that Defendants’ motion for summary judgment (Doc. 44) be **DENIED** as to Plaintiff’s claims against Defendants Horne, Timothy Williams, Douglas, and Watkins.

OBJECTIONS

Pursuant to 28 U.S.C. § 636(b)(1), the parties may serve and file written objections to these recommendations with the presiding District Judge **WITHIN FOURTEEN (14) DAYS** after being served with a copy of this Recommendation. The parties may seek an extension of time in which to file written objections, provided a request for an extension is filed prior to the deadline for filing written objections. Any objection is limited in length to **TWENTY (20) PAGES**. *See* M.D. Ga. L.R. 7.4. Failure to object in accordance with the provisions of § 636(b)(1) waives the right to challenge on appeal the district judge's order based on factual and legal conclusions to which no objection was timely made. *See* 11th Cir. R. 3-1.

The parties are further notified that, pursuant to Eleventh Circuit Rule 3-1, “[a] party failing to object to a magistrate judge’s findings or recommendations contained in a report and recommendation in accordance with the provisions of 28 U.S.C. § 636(b)(1) waives the right to challenge on appeal the district court’s order based on unobjected-to factual and legal conclusions if the party was informed of the time period for objecting and the consequences on appeal for failing to object. In the absence of a proper objection, however, the court may review on appeal for plain error if necessary in the interests of justice.”

SO RECOMMENDED, this 28th day of June, 2024.

s/ Charles H. Weigle
Charles H. Weigle
United States Magistrate Judge