

In his Recommendation, Judge Langstaff recommends permitting the claims against Defendants Williams, McDaniel, and Hollman to proceed because Plaintiff has alleged sufficient facts to survive a preliminary frivolity review on the basis of a deliberate indifference claim. (See Doc. 8 at 4-5.) However, Judge Langstaff recommends dismissing Defendant Jeanes from this suit because Plaintiff has not alleged sufficient facts to permit a *respondeat superior* claim against him to proceed. (*Id.* at 4.) Plaintiff claimed that Defendant Jeanes should be held responsible for the actions of the other Defendants merely because of his position as warden. (Doc. 7 at 1-2.) The Court agrees with Judge Langstaff that Plaintiff's assertion is incorrect and Plaintiff has failed to allege facts sufficient for such a claim against Defendant Jeanes.

Accordingly, United States Magistrate Judge Thomas Q. Langstaff's July 3, 2013 Order and Recommendation (Doc. 8) is **ACCEPTED, ADOPTED** and made the Order of this Court for reason of the findings made and reasons stated therein, together with the reasons stated and conclusions reached herein.

"[W]here a more carefully drafted *pro se* complaint might state a claim the 'plaintiff must be given at least one chance to amend the complaint before the district court dismisses the action with prejudice.' " See *Bettencourt v. Owens*, No. 11-15036, 2013 WL 5450978, *4 (11th Cir. Oct. 2, 2013) (citing *Bank v. Pitt*, 928 F.3d 1108, 1112 (11th Cir. 1991)). The Eleventh Circuit "place[s] a heavy thumb on the scale in favor of" giving *pro se* litigants the opportunity to amend. *Id.* The decision should be made in light of "the purpose of pleading[, which] is to facilitate a proper decision on the merits." *Id.* (citing *Bank*, 928 F.2d at 1112). Based on the foregoing, the claim against Defendant

Jeanes is **DISMISSED WITHOUT PREJUDICE** for failure to state a claim. The claims against Defendants Williams, McDaniel, and Hollman may proceed.

SO ORDERED, this 15th day of January 2014.

/s/ W. Louis Sands

W. LOUIS SANDS, JUDGE
UNITED STATES DISTRICT COURT