

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

**OSCAR ALEXANDER DIAZ
HERNANDEZ,**

Plaintiff,

v.

Case No: 6:16-cv-1017-Orl-28TBS

**ORANGE COUNTY, ORANGE COUNTY
CORRECTIONS DEPT., TERESA
JACOBS, DEANNE ADAMS, TERRY L.
MEYER, GABRIEL RAMOS, JERRY
HADDOCK, ROBERTA THOMAS,
ELLEN RITTEN, LT. KOROPATNICKI,
CAPT. FARRELL, LT. THOMAS, S.
COBB, COURTNEY PADGETT, NURSE
MCGEE, NURSE LEWIS, JANE
JENKINS, JOHN DOES 1 - 8, NURSE
CARDONA and NURSE MARTINEZ,**

Defendants.

ORDER

This case is before the Court on the Motions to Dismiss (Doc. Nos. 124, 125) filed by Defendants Mayor Teresa Jacobs, Ofc. Terry L. Meyer, Lt. Deanne Adams, Ofc. Gabriel Ramos, Cpl. Jerry Haddock, Lt. Roberta R. Thomas, Lt. Jennifer A. Koropatnicki, Cpt. Sean Farrell, Ellen L. Ritten, Cpl. Sharla Cobb, Jane Jenkins, Courtney Padgett, Nurse Latasha Mcgee, Nurse Sandra Lewis, Nurse Betty Cardona, and Orange County, Florida. The assigned United States Magistrate Judge has submitted a Report (Doc. 146) recommending that the motions be granted in part. No party has filed an objection to the Report and Recommendation and the time to do so has passed.

After a *de novo* review of the record in this matter, the Court agrees with the findings of fact and conclusions of law in the Report and Recommendation. Therefore, it is **ORDERED** as follows:

1. The Report and Recommendation (Doc. No. 146) is **ADOPTED** and **CONFIRMED** and made a part of this Order.

2. The Motions to Dismiss (Doc. Nos. 124, 125) are **GRANTED in part**.

3. The First Amended Complaint is dismissed without prejudice.

4. All claims against the Corrections Department are dismissed with prejudice and the Corrections Department is terminated as a party.

5. All claims against the Individual Defendants in their official capacity are dismissed with prejudice.

6. All Eighth Amendment claims are dismissed with prejudice.

7. Plaintiff's Fourth Amendment claim in Count Two is dismissed without prejudice to re-pleading, if appropriate, as a Fourteenth Amendment claim.

8. Plaintiff is given a final opportunity to state a cognizable claim, subject to the limitations set forth herein, in a Second Amended Complaint.

9. Plaintiff is directed to proceed through a next friend, authorized representative, or, if necessary, appointment of a guardian ad litem.

10. Plaintiff shall file his Second Amended Complaint, as outlined herein, within fourteen days from the date of this Order.

11. Failure to file a Second Amended Complaint within the time allowed herein will result in this case being dismissed and the case closed.

DONE and **ORDERED** in Orlando, Florida, on April 10th, 2017.



JOHN ANTOON II
United States District Judge

Copies furnished to:
United States Magistrate Judge
Counsel of Record
Unrepresented Parties