

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION

NYKA O'CONNOR,

Plaintiff,

v.

3:09cv224-WS

M.L. CARNAHAN, et al.,

Defendants.

ORDER ADOPTING THE MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION

Before the court is the magistrate judge's report and recommendation (doc. 95) docketed March 27, 2012. The plaintiff has filed no objections to the report and recommendation.

The court has reviewed the record and has determined that the magistrate judge's report and recommendation should be adopted. Accordingly, it is ORDERED:

1. The magistrate judge's report and recommendation (doc. 95) is hereby ADOPTED and incorporated by reference in this order.
2. The plaintiff's claims for deprivation of property, denial of due process, harassing cell searches, retaliatory DR, heightened security status, use of excessive force, and access-to-courts are DISMISSED WITH PREJUDICE.
3. The plaintiff's deliberate indifference claim (as set forth in Document #93 at ¶ 21), asserting that he attacked another prisoner because he was not housed alone

for ninety days following his release from the TCU, is DISMISSED WITH PREJUDICE. The plaintiff's deliberate indifference claim (as set forth in Document #93 at ¶ 22), asserting that he was denied psychiatric medications, is DISMISSED WITHOUT PREJUDICE for failure to exhaust administrative remedies.

4. The plaintiff's free speech claims under the First Amendment (as set forth in Document #93 at ¶¶ 3 & 10), asserting that a document attached to a grievance was improperly opened and retained and that spiral bindings were not removed from his TAB materials, are DISMISSED WITH PREJUDICE.

5. The plaintiff's free speech claims concerning the processing of his mail (as set forth in Document #93 at ¶¶ 1, 2, 11-14, and 23-25) are DISMISSED WITHOUT PREJUDICE.

6. The plaintiff shall have until July 20, 2012, to file a fifth amended complaint to assert only his free speech claims concerning the processing of his mail and any supplemental state law claims.

7. If the plaintiff fails to file a fifth amended complaint on or before July 20, 2012, the clerk shall enter a judgment of dismiss without further order of the court.

DONE AND ORDERED this 15th day of June, 2012.

s/ William Stafford _____
WILLIAM STAFFORD
SENIOR UNITED STATES DISTRICT JUDGE