

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PENSACOLA DIVISION**

ERLIN JAMES HOWES,

Plaintiff,

v.

Case No. 3:14cv320/LC/CJK

W. DYKES, et al.,

Defendants.

ORDER

This cause comes on for consideration upon the Magistrate Judge's Report and Recommendation dated October 27, 2015 (doc. 13). The parties have been furnished a copy of the Report and Recommendation and have been afforded an opportunity to file objections pursuant to Title 28, United States Code, Section 636(b)(1). Plaintiff's Motion of Appeal and or Inquiry (doc. 14) has been considered as objections to the Magistrate Judge's Report and Recommendation. I have made a de novo determination of these timely filed objections.

Having considered the Report and Recommendation, and the objections there to timely filed, I have determined that the Report and Recommendation should be adopted.

Accordingly, it is now **ORDERED** as follows:

1. The Magistrate Judge's Report and Recommendation is adopted and incorporated by reference in this order.
2. Plaintiff's claims against defendants Goldhagon and Foskey are **DISMISSED WITHOUT PREJUDICE** under 28 U.S.C. § 1915(e)(2)(B)(ii) for plaintiff's failure to state a claim.
3. Plaintiff's Fourteenth Amendment claim against defendants Dykes, White, and Norris is **DISMISSED WITHOUT PREJUDICE** under 28 U.S.C. § 1915(e)(2)(B)(ii) for plaintiff's failure to state a claim.

4. This matter is referred to the Magistrate Judge for further proceedings on plaintiff's Eight Amendment claim against defendants White, Dykes, and Norris.

DONE AND ORDERED this 18th day of November, 2015.

s/L. A. Collier

LACEY A. COLLIER

SENIOR UNITED STATES DISTRICT JUDGE