

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

DARRYL TORNEY GIBSON,  
Inmate No. 169618,  
Plaintiff,

v.

CASE NO. 3:15cv458/MCR/EMT

SGT. B. KENT,  
Defendant.

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**ORDER**

This cause comes on for consideration upon the chief magistrate judge's Report and Recommendation dated November 18, 2016 (ECF No. 16). Plaintiff has been furnished a copy of the Report and Recommendation and has been afforded an opportunity to file objections pursuant to Title 28, United States Code, Section 636(b)(1). I have made a *de novo* determination of any timely filed objections.

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

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

1. The chief magistrate judge's Report and Recommendation is adopted and incorporated by reference in this Order.

2. Plaintiff's claims under the Prison Rape Elimination Act and under the Eighth Amendment are **DISMISSED** with prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim upon which relief may be granted.

3. Plaintiff's claims under state laws and regulations are **DISMISSED** without prejudice.

4. This dismissal is deemed a "strike" for purposes of 28 U.S.C. § 1915(g).

**DONE AND ORDERED** this 19th day of December, 2016.

*s/ M. Casey Rodgers*

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**M. CASEY RODGERS**  
**CHIEF UNITED STATES DISTRICT JUDGE**