

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

BRANDYN MITCHELL,  
Plaintiff,

vs.

Case No.: 3:24cv210/LAC/ZCB

J. WEST, et al.,  
Defendants.

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**ORDER**

The magistrate judge issued a Report and Recommendation on October 31, 2024. (Doc. 18). The Court furnished the plaintiff a copy of the Report and Recommendation and 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 the timely filed objections.

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

Accordingly, it is **ORDERED**:

1. The magistrate judge's Report and Recommendation (Doc. 18) is adopted and incorporated by reference in this order.

2. Plaintiff's Eighth Amendment claims against Defendant Neal are **DISMISSED** for failure to state a claim upon which relief may be granted under 28 U.S.C. § 1915(e)(2)(B)(ii).

3. Plaintiff's Eighth Amendment claims against Defendants Miller and West based on verbal threats or harassment are **DISMISSED** for failure to state a claim upon which relief may be granted under 28 U.S.C. § 1915(e)(2)(B)(ii).

4. Plaintiff's retaliation claims against all Defendants are **DISMISSED** for failure to state a claim upon which relief may be granted under 28 U.S.C. § 1915(e)(2)(B)(ii).

5. This matter is recommitted to the assigned magistrate judge for further proceedings on Plaintiff's Eighth Amendment claims of excessive force against Defendants Miller and West.

**DONE AND ORDERED** this 25<sup>th</sup> day of November, 2024.

s/L.A. Collier  
**LACEY A. COLLIER**  
**SENIOR UNITED STATES DISTRICT JUDGE**