

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

RYAN TIERNEY, as the Personal  
Representative of the ESTATE OF  
MICHELLE TIERNEY and on  
behalf of her survivors,

Plaintiff,

v.

4:17cv05–WS/CAS

JULIE JONES, in her official  
capacity as Secretary of the  
FLORIDA DEPARTMENT OF  
CORRECTIONS, et al.,

Defendants.

---

ORDER ADOPTING THE MAGISTRATE JUDGE'S  
REPORT AND RECOMMENDATION

Before the court is the magistrate judge's report and recommendation (doc. 35) docketed July 26, 2018. The magistrate judge recommends that Defendants' corrected motion for summary judgment (doc. 31) be granted in part. Plaintiff has filed no objections to the report and recommendation.

Having considered the record, the court finds that the magistrate judge's report and recommendation is due to be adopted.

Accordingly, it is ORDERED:

1. The magistrate judge's report and recommendation (doc. 35) is hereby ADOPTED and incorporated by reference into this order.
2. Defendants' corrected motion for summary judgment (doc. 31) is GRANTED as to Count III, which is the lone federal claim asserted in Plaintiff's complaint.
3. The case is REMANDED to the state court from which it came for further proceedings to resolve the issues of state law asserted in Counts I and II.
4. The clerk shall enter judgment as to Count III only, stating: "Count III is dismissed with prejudice."

DONE AND ORDERED this 4th day of September, 2018.

s/ William Stafford  
WILLIAM STAFFORD  
SENIOR UNITED STATES DISTRICT JUDGE