

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION**

DWIGHT J. PORTER,

Plaintiff,

vs.

CASE NO. 5:10-cv-206/RS-GRJ

COLONEL BAXTER, et al.,

Defendants.

_____ /

AMENDED ORDER¹

Before me is the Magistrate Judge's Report and Recommendation (Doc. 52).

Defendants Colonel Baxter, Captain Lee, and Assistant Warden Dudley filed objections.

(See Doc. 53). I have considered those objections de novo.

IT IS ORDERED:

1. The Magistrate Judge's Report and Recommendation is adopted and incorporated by reference in this Order.
2. Defendants Simmons and Durance's Motion to Dismiss (Doc. 40) is **GRANTED**.
3. Defendant Lee's Motion to Dismiss (Doc. 40) is **DENIED**.
4. Defendant Dudley's Motion to Dismiss (Doc. 44) is **DENIED**.
5. Defendant Tyus' Motion to Dismiss (Doc. 48) is **GRANTED**.
6. Defendant Baxter's Motion to Dismiss (Doc. 48) is **DENIED**.

¹ Amended to reflect the inclusion of number four above. The remaining items are renumbered.

7. Defendants Simmons, Durrance and Tyus are **DROPPED** as parties to this case because of Plaintiff's failure to exhaust administrative remedies.
8. The case remains open pending further proceedings against Defendants Lee, Dudley, and Baxter.

ORDERED on March 8, 2012.

/S/ Richard Smoak
RICHARD SMOAK
UNITED STATES DISTRICT JUDGE