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## IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF GEORGIA ALBANY DIVISION

DONOVAN CHAMBERS,

Plaintiff,

v. : 1:07-CV-26 (WLS)

Warden CYNTHIA NELSON, et al.,

Defendants.

## **ORDER**

Before the Court is a Report and Recommendation from United States Magistrate Richard L. Hodge filed on January 28, 2009. (Doc. 76). It is recommended that Defendants' Motion for Summary Judgment (Doc. 66) be granted. *Id.* Plaintiff filed a timely objection to the Report and Recommendation on February 12, 2009. (Doc. 48).

In the Recommendation, it was found that Plaintiff's deliberate indifference claim, referencing his medical care, cannot be maintained against the remaining Defendants, Nelson and Jones, because Plaintiff's physician, Dr. Saad, has already been terminated from this action. Furthermore, Section 1983 claims must be based on something more than a theory of *respondeat superior*. Also, there is no constitutional right to a grievance procedure; therefore Defendants Nelson and Jones did not violate Plaintiff's rights by denying the grievance he filed at the prison.

In his objection, Plaintiff essentially recaptures the arguments he made before Judge Hodge, arguing that Dr. Saad retaliated against him for filing a grievance, and also withheld necessary medical treatment. Additionally, Plaintiff contends repeatedly that Defendants Nelson and Jones were responsible for overseeing all of the inmates at the Autry State Prison, therefore they should have stepped in to stop Dr. Saad's actions.

Plaintiff's arguments concerning Dr. Saad's allegedly retaliatory conduct and deliberate indifference are inapposite to his claims against Defendants Nelson and Jones because Defendant Saad was previously dismissed from this action. As noted above, the law does not permit Plaintiff to hold Defendants Nelson and Jones liable for the actions of Dr. Saad merely because they were in charge at Autry State Prison.

Therefore, upon full review and consideration upon the record, the Court finds that said Report and Recommendation (Doc. 76) should be, and hereby is, **ACCEPTED**, **ADOPTED** and made the Order of this Court for reason of the findings made and reasons stated therein, together with the findings made, reasons stated and conclusions reached herein. Accordingly, Defendant's Motion for Summary Judgment (Doc. 66) is **GRANTED**.

**SO ORDERED**, this <u>31<sup>st</sup></u> day of March, 2009.

/s/W. Louis Sands
THE HONORABLE W. LOUIS SANDS,
UNITED STATES DISTRICT COURT