

CIVIL ACTION NO. 5:14-CV-214 (MTT)

United States Magistrate Judge Stephen Hyles recommends denying the Plaintiff's motion for summary judgment based on spoliation (Doc. 72). Doc. 96. The Magistrate Judge also recommends granting in part and denying in part the Defendants' motion for summary judgment (Doc. 71), so that the Plaintiff's claims against Dr. Fye be allowed to proceed to trial but his claims against Warden McLaughlin be dismissed. *Id.* The Defendant has objected to the Recommendation to the extent it recommends allowing the claims against Dr. Fye to proceed. Doc. 99. The Plaintiff has not objected to the Recommendation.

The Court has reviewed the Recommendation, and, pursuant to 28 U.S.C. § 636(b)(1), the Court has considered the Defendant's objection and has made a de novo determination of the portions of the Recommendation to which the Defendant objects. The Court accepts and adopts the findings, conclusions, and recommendations of the Magistrate Judge. The Recommendation is **ADOPTED** and made the order of this Court. Accordingly, the Plaintiff's motion for summary judgment (Doc. 72) is **DENIED**; and the Defendant's motion for summary judgment (Doc. 71) is **GRANTED in part** and

DENIED in part, so that the Plaintiff's claims against Dr. Fye may proceed to trial but the claims against Warden McLaughlin are dismissed.

SO ORDERED, this 15th day of August, 2017.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT