FEDD v. ALMEDOM et al Doc. 48

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

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) ) CIVIL ACTION NO. 5:15-CV-104 (MTT)
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## ORDER

United States Magistrate Judge Charles H. Weigle recommends granting the Defendants' motions to dismiss (Docs. 14; 33) because the Plaintiff failed to exhaust his administrative remedies. <sup>1</sup> (Doc. 46). The Plaintiff has objected to the Recommendation. (Doc. 47). Pursuant to 28 U.S.C. § 636(b)(1), the Court has considered the Plaintiff's objection and has made a de novo determination of the portions of the Recommendation to which the Plaintiff objects. The Court has reviewed the Recommendation, and 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 Defendants' motions to dismiss are **GRANTED**, and the Plaintiff's claims are **DISMISSED** without prejudice. <sup>2</sup>

<sup>&</sup>lt;sup>1</sup> As noted by the Magistrate Judge, Defendant Sabrina Starling filed a separate motion to dismiss in which she joined her Co-Defendants' motion to dismiss. (Docs. 33-34). She also filed a notice of joining the Co-Defendants' motion. (Doc. 35). Accordingly, the Court interprets the Recommendation as recommending the Court grant both motions to dismiss for failure to exhaust.

<sup>&</sup>lt;sup>2</sup> The Plaintiff has also moved to amend his complaint, to be appointed counsel, and to "dismiss stay order." (Docs. 25; 40; 41). In his motion to amend, the Plaintiff does not provide additional facts that demonstrate he has exhausted his administrative remedies. Accordingly, the Plaintiff's motion to amend is **DENIED as futile**. The motion to appoint counsel is **DENIED as moot**. The Court construes the

## SO ORDERED, this 12th day of February, 2016.

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

<sup>&</sup>quot;motion to dismiss stay order" as a motion for reconsideration of the Magistrate Judge's order granting the Defendants' motion to stay discovery (Doc. 23). This motion is also **DENIED as moot**.