

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

<b>JAMES MANUEL PHILLIPS, JR.,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>Case No: 5:15-cv-249 (MTT-CHW)</b>
	)	
<b>NATHAN DEAL, et al.,</b>	)	
	)	
<b>Defendants.</b>	)	

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**ORDER**

United States Magistrate Judge Charles Weigle recommends granting Defendant Gramiak’s and Defendant Johnson’s joint motion to dismiss (Doc. 53) and Defendant Temple’s motion to dismiss (Doc. 54). By these motions, the Defendants seek dismissal of all of Phillips’s claims against them in this action. Doc. 67 at 2. The Defendants’ motions were filed September 19, 2016. See Docs. 53, 54. After Phillips failed to respond to the motions for a three-month period, Magistrate Judge Weigle entered an order informing Phillips of his obligation to respond and directing him to respond within fourteen days. Doc. 65. After receiving no response for an additional three-month period, the Magistrate Judge entered his thorough Recommendation as to the Defendants’ asserted grounds for dismissal. Doc. 67.

Magistrate Judge Weigle recommends dismissing Phillips’s Eighth Amendment environmental tobacco smoke (ETS) claim against Gramiak and Johnson because Phillips failed to properly exhaust his administrative remedies. *Id.* at 9-11. Similarly, Magistrate Judge Weigle recommends dismissing Phillips’s retaliatory transfer claim against Temple for failure to exhaust and dismissing Phillips’s access-to-court claim against Temple because it was filed outside of the statute of limitations. *Id.* at 11-13. Phillips has not objected to the Recommendation, and the time for doing so has expired.

The Court has carefully reviewed the Recommendation and accepts and adopts the findings, conclusions, and recommendations of the Magistrate Judge. The Recommendation (Doc. 67) is **ADOPTED** as the order of the Court. The Defendants' motions to dismiss (Docs. 53, 54) are **GRANTED**. Phillips's claims against Defendants Gramiak, Johnson, and Temple are accordingly **DISMISSED** without prejudice.

**SO ORDERED**, this 2nd day of May.

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