

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

JAMES A. COSTLOW,

Plaintiff,

v.

**DEPARTMENT OF CORRECTIONS, et
al.,**

Defendants.

CIVIL ACTION NO. 5:15-CV-268 (MTT)

ORDER

After Magistrate Judge Charles H. Weigle conducted the preliminary screening of Plaintiff James A. Costlow’s complaint required by 28 U.S.C. § 1915A, he recommends allowing Costlow’s claims against Defendant McLaughlin to proceed and dismissing the claims against Defendants Lockett and the Georgia Department of Corrections. (Doc. 7). Costlow has objected. (Doc. 13). Pursuant to 28 U.S.C. § 636(b)(1), the Court has reviewed Costlow’s objection and has made a de novo determination of the portions of the Recommendation to which he objects.

The Magistrate Judge recommends dismissing Costlow’s claim against Lockett because he had not alleged that Lockett had any particularized knowledge that McCrimmon posed a specific threat to Costlow. (Doc. 7 at 5). In his complaint, Costlow alleges that he notified Lockett about threats against him twice. (Doc. 1 at 4, 5). In his objection, Costlow clarifies that this notification was that McCrimmon was a threat to him and that there was the possibility of an altercation if McCrimmon was allowed to serve Costlow’s food. (Doc. 13 at 1). Lockett still allowed McCrimmon to serve

Costlow's food, and he did not supervise McCrimmon while he did so. (Doc. 13 at 1). Construing his allegations liberally, Costlow has sufficiently alleged that Lockett knew of the substantial risk of serious harm and knowingly or recklessly disregarded that risk. He has stated a deliberate indifference claim against Lockett.

The Court **ACCEPTS in part and REJECTS in part** the findings, conclusions, and recommendations of the Magistrate Judge. Accordingly, the deliberate indifference claim against Lockett may proceed along with the claim against McLaughlin. It is **ORDERED** that service be made on Corey Lockett and that he file an answer or such other response as may be appropriate under Fed. R. Civ. P. 12, 28 U.S.C. § 1915, and the Prison Litigation Reform Act. The Defendants are also reminded of the duty to avoid unnecessary service expenses and of the possible imposition of expenses for failure to waive service. The Plaintiff is reminded of his duty to keep the clerk of court and all opposing attorneys advised of his current address, duty to prosecute this action, and the provisions regarding discovery in the Magistrate Judge's order.

SO ORDERED, this 15th day of April, 2016.

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