

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

**PHILLIP NATHAN KERCH,**

**Plaintiff,**

**v.**

**Warden GLEN JOHNSON, et al.,**

**Defendants.**

**CIVIL ACTION NO. 5:17-CV-186 (MTT)**

**ORDER**

After screening the Plaintiff's complaint pursuant to 28 U.S.C. § 1915A, United States Magistrate Judge Charles H. Weigle allowed the First Amendment retaliation claim against Defendant McLaren and the Eighth Amendment claims against Defendants Johnson, McLaren, and Redding to proceed. Doc. 13 at 1. The Magistrate Judge recommends that the Plaintiff's Sixth Amendment claim and remaining First Amendment claim be dismissed without prejudice. *Id.* at 1-2.<sup>1</sup> The Plaintiff has objected to the Recommendation. Doc. 17. Pursuant to 28 U.S.C. § 636(b)(1), the Court has reviewed de novo the portions of the Recommendation to which the Plaintiff objects, 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 Plaintiff's Sixth Amendment claim and

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<sup>1</sup> The introduction of the Recommendation suggests that these claims should be dismissed with prejudice, but the conclusion and the body of the Recommendation recommends that these claims be dismissed without prejudice. *Compare* Doc. 13 at 1-2 ("with prejudice"), *with id.* at 9-10 ("without prejudice").

remaining First Amendment claim against Defendant McLaren are **DISMISSED without prejudice.**

**SO ORDERED**, this 12th day of October, 2017.

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