

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
STATESBORO DIVISION

LANARD WILLIAMS; CHRISTOPHER
MABRY; CEDRIC CALDWELL;
and AVERY RICHARD,

Plaintiffs,

v.

GEORGIA DEPARTMENT OF
CORRECTIONS; STEVEN UPTON,
Warden, Georgia State Prison;
WENDELL FOWLER, Deputy
Warden; DANE DASHER, Deputy
Warden; and CHRIS TUCKER,
Correctional Officer,

Defendants.

CIVIL ACTION NO.: CV611-011

FILED
U.S. DISTRICT COURT
SAVANNAH DIV.
2012 JUL 10 PM 3:41
CLERK
SO. DIST. OF GA.

ORDER

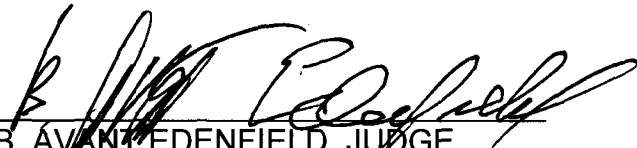
After an independent and *de novo* review, the undersigned concurs with the Magistrate Judge's Report and Recommendation, to which Objections have been filed. In their Objections, Defendants state that the Magistrate Judge's recommendation that Plaintiffs Williams and Caldwell exhausted their administrative remedies and that this portion of Defendants' Motion should be denied is contrary to the exhaustion requirements. As the Magistrate Judge noted, an institution's requirements define what is considered proper exhaustion. The Georgia Department of Corrections' Standard Operating Procedure ("SOP") encourages the resolution of complaints on an informal basis. Plaintiffs Williams and Caldwell had their grievance resolved at the informal

level, and this resolution apparently was satisfactory to them. Plaintiffs Williams and Caldwell did what was required of them under the applicable SOP.

Defendants also seek clarification regarding the Magistrate Judge's recommended resolution of Plaintiff's state law tort claims. Though the Magistrate Judge could have been a little more clear in the body of his Report, the footnote found on page nine (9) indicates his intention that Plaintiffs' state law tort claims should be dismissed in their entirety.

The Magistrate Judge's Report and Recommendation is adopted as the opinion of the Court. Defendants' Motion to Dismiss Plaintiffs' Amended Complaint is **GRANTED** in part and **DENIED** in part. Plaintiffs' state law tort claims against all Defendants, in any capacity, are **DISMISSED**. Plaintiffs' claims against the Georgia Department of Corrections are **DISMISSED**. The Clerk of Court is directed to terminate the Georgia Department of Corrections as a named Defendant. Plaintiffs' constitutional claims for monetary damages against the individually-named Defendants in their individual capacities shall remain pending.

SO ORDERED, this 10 day of July, 2012.


B. AVANT EDENFIELD, JUDGE
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA