

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA

COREY MARQUEE ADAMS (#357624)

CIVIL ACTION

VERSUS

NO. 18-191-JWD-RLB

LOUISIANA DEPT. OF CORR., ET AL.

OPINION

After independently reviewing the entire record in this case and for the reasons set forth in the Magistrate Judge's Report dated March 12, 2019, to which an opposition was filed (Doc. 91);

IT IS ORDERED that the plaintiff's claims against defendants Darbone, Diaz, Wright, Honeycutt, and Dr. Barkmeyer are dismissed, without prejudice, for failure of the plaintiff to timely effect service upon them.

Additionally, the summary judgment record establishes that the plaintiff failed to exhaust his administrative remedies as to certain claims prior to filing suit. As such, the Court may grant a motion for summary judgment with respect to any non-moving defendants sua sponte after giving the plaintiff notice and a reasonable time to respond. The objection period which follows this Report and Recommendation, as set forth in 28 U.S.C. § 636(b)(1) and Federal of Civil Procedure 72(b), satisfies the notice requirement. See *Treadway v. Wilkinson*, 2008 WL 4224817, n.3, (W.D. La. June 10, 2008).

IT IS FURTHER ORDERED that the Motion for Partial Summary Judgment (Doc. 41) is granted in part, dismissing all of the plaintiff's claims, with prejudice, except: (1) the plaintiff's claim for deliberate indifference to his serious medical needs asserted against

defendants S. Lamartiniere, Adams, Dr. Lavespere, Dr. Gamble, Bellamy, and Smith and (2) the plaintiff's claim for excessive force asserted against defendant Holmes.

IT IS FURTHER ORDERED that in all other regards the Motion (Doc. 41) is denied, and this matter is referred back to the Magistrate Judge for further proceedings.

Signed in Baton Rouge, Louisiana, on April 3, 2019.



**JUDGE JOHN W. deGRAVELLES
UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF LOUISIANA**