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ALEXANDRIA, LOUISIANA
DATE 9/11/09
BY _____

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

JAMES HOUSTON HICKS,
Plaintiff

CIVIL ACTION
SECTION "P"
NO. CV08-0687-A

VERSUS

CORRECTIONS CORPORATION OF
AMERICA, et al.,
Defendants

JUDGE DEE D. DRELL
MAGISTRATE JUDGE JAMES D. KIRK

J U D G M E N T

For the reasons contained in the original and supplemental Report and Recommendation of the Magistrate Judge previously filed herein, and after independent (de novo) review of the record including the objections filed herein, and having independently determined that the findings and recommendation are correct under the applicable law;

IT IS ORDERED that defendants' motion for summary judgment is **GRANTED**, Hicks' motion for summary judgment is **DENIED**, and Hicks' action against Winn Correctional Center, Sara McCoy, Mona Heyse, Connie Green, and Myrle Hardwell is **DISMISSED WITH PREJUDICE** for failure to state a claim cognizable under Section 1983 against those defendants.

IT IS FURTHER ORDERED that defendants' motion for summary judgment is **GRANTED** as to all defendants on the issue of retaliation/failure to protect due to Hicks' failure to exhaust his administrative remedies, Hicks' motion for summary judgment is **DENIED** on that issue, and Hicks' claims for retaliation/failure to protect are **DISMISSED WITH PREJUDICE**.

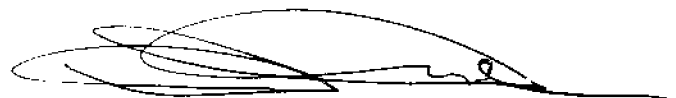
IT IS ALSO ORDERED that Hicks' motion for summary judgment is **GRANTED** against Wilkinson on Hicks' Eighth Amendment claim for denial of medical care/involuntary exposure to second hand smoke, and Wilkinson's motion for summary judgment is **DENIED** on that claim. Only the issue of the amount of damages to which Hicks is entitled remains to be determined.

IT IS FURTHER ORDERED that both Hicks' and defendants' motions for summary judgment are **DENIED** as to Hicks' Eighth Amendment claim against CCA, Pat Thomas, Dr. Pacheco, Lucas, Glover, Wiley, Martin, and Morgan.

IT IS ORDERED that the case is **REMANDED** to the undersigned Magistrate Judge for further proceedings as to the Eighth Amendment claims against CCA, Pat Thomas, Dr. Pacheco, Lucas, Glover, Wiley, Martin and Morgan. A determination of the amount of damages that Hicks is entitled to from Wilkinson on the Eighth Amendment claims will be made after further proceedings on the remaining issues.

Further, regarding the undersigned's review of the objections to the Supplemental Report and Recommendation, we note Defendants have had more than ample opportunity to present their case and evidence on their motions. Their eleventh hour attempts to "fix" the evidence now change nothing, and we agree wholeheartedly with the Magistrate Judge's observations in footnote one of the Supplemental Report and Recommendation.

THUS ORDERED AND SIGNED in Chambers at ALEXANDRIA, Louisiana, on this 11th day of SEPTEMBER, 2009.



DEE D. DRELL
UNITED STATES DISTRICT JUDGE