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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

DONALD K. SMITH

CIVIL DOCKET NO. 11-1384

-vs-

JUDGE DRELL

TIM WILKINSON, WARDEN, et al.

MAGISTRATE JUDGE KIRK

J U D G M E N T

For the reasons contained in the 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 concurring with the Magistrate Judge's findings under the applicable law;

IT IS ORDERED that Plaintiff's Complaint is DENIED and DISMISSED WITH PREJUDICE as to all defendants except Sgt. Smith.

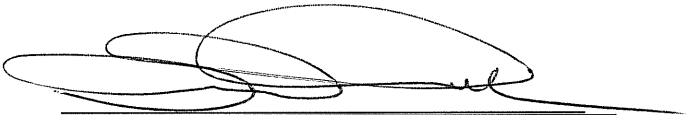
In so ruling we also have considered the content of Plaintiff's objections, specifically the argument that the Louisiana state law theory of respondeat superior makes Tim Wilkinson, Winn Correctional Center ("WCC"), and Corrections Corp of America ("CCA") vicariously liable for the acts of the employee Sgt. Smith. In his Complaint, Plaintiff failed to allege any facts suggesting vicariously liability on the part of Wilkinson, WCC, or CCA. Plaintiff did assert direct claim for negligence arising under state law against these three defendants.¹ However, because we are

¹ See Doc. 1 at p. 6 ("Plaintiff reasons that WNC [Winn Correctional Center] Security, Warden, and CCA are obligated to keep him safe from harm of [sic] other inmates. The defendants are liable as their conduct in question was cause-in-fact resulting in harm, that defendants owes

dismissing the federal claims against Wilkinson, WCC, and CCA, we decline to exercise supplemental jurisdiction over the state law claims against these defendants in accordance with 28 U.S.C. § 1367 (c)(3). *See Welch v. Thompson*, 20 F.3d 636, 644 (5th Cir. 1994) ("When all federal claims are dismissed, the district court enjoys wide discretion in determining whether to retain jurisdiction over the remaining state law claims."). Plaintiff's Complaint indicates that state law claims were asserted only against Wilkinson, WCC, and CCA and none against Sgt. Smith.

Accordingly, Plaintiff's federal law claims are DISMISSED WITH PREJUDICE as to all defendants except Sgt. Smith. Plaintiff's state law claims are DISMISSED WITHOUT PREJUDICE and Plaintiff may pursue them in the appropriate state court, should he wish.

Signed on this 30th day of November, 2011, at Alexandria, Louisiana.



DEE D. DRELL
UNITED STATES DISTRICT JUDGE

[sic] a duty of care to plaintiff, that requisite duty was breached by defendants, and that risk of harm inflicted is within the scope of protection afforded by duty breached.").