

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
SHREVEPORT DIVISION**

DAYTREND MOSES

CIVIL ACTION NO. 16-0390

VERSUS

JUDGE S. MAURICE HICKS, JR.

SHANICE MORGAN, ET AL

MAGISTRATE JUDGE HAYES

**ORDER**

Before the Court is the Report and Recommendation of the Magistrate Judge. See Record Document 16. This Court has thoroughly reviewed the record in this matter, including the written objections filed by Plaintiff Daytrend Moses. The Court concurs with the findings of the Magistrate Judge under the applicable law as to all claims, except the Eighth Amendment excessive force claim against Defendant Sergeant Shanice Morgan based on the November 28, 2015 incident.

Accordingly,

**IT IS ORDERED** that Plaintiff's Eighth Amendment excessive force claim against Sergeant Shanice Morgan based on the November 28, 2015 incident is again **REFERRED** to Magistrate Judge Hayes for further consideration in light of Wilkins v. Gaddy, 559 U.S. 34 (2010). See also Fifth Circuit Pattern Jury Instruction 10.7 (2014).

**IT IS FURTHER ORDERED** that Plaintiff's civil rights claims against Sergeant Sheila Coleman, Deputy Warden Angie Huff, Captain Kimball, Captain Shantell Coleman, Tommy Garrett, Colonel W. Tolliver, Colonel Hamilton, Mark Hunter, Head Warden Jerry Goodwin, and Jesse Jimerson are **DISMISSED WITH PREJUDICE**<sup>1</sup> as frivolous and for

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<sup>1</sup>Plaintiff's claims that are barred by Heck v. Humphrey are dismissed with prejudice subject to being reasserted when, and if, the conditions of Heck v. Humphrey are met.

failing to state a claim on which relief may be granted pursuant to the provisions of 28 U.S.C. § 1915(e)(2)(B)(i) and (ii). All claims against Sergeant Shanice Morgan other than the Eighth Amendment excessive force claim based on the November 28, 2015 incident are also **DISMISSED WITH PREJUDICE**.

**IT IS FURTHER ORDERED** that Plaintiff's Motion for Extension of Time for Court to Consider Plaintiff's Motion for Preliminary Injunction (Record Document 12) and Motion for Preliminary Injunction (Record Document 13) are **DENIED**.

**THUS DONE AND SIGNED** at Shreveport, Louisiana, on this the 24th day of February, 2016.

  
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S. MAURICE HICKS, JR.  
UNITED STATES DISTRICT JUDGE

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