

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
OXFORD DIVISION**

**WILEY ZACHARY CARROLL**

**PLAINTIFF**

**V.**

**NO. 3:16-CV-260-DMB-JMV**

**TIPPAH COUNTY, et al.**

**DEFENDANTS**

**ORDER**

On May 1, 2017, following a *Spears*<sup>1</sup> hearing, United States Magistrate Judge Jane M. Virden issued a Report and Recommendation recommending that Wiley Zachary Carroll's claims against Jim Kelly and Chris Kitchen be dismissed and that Carroll's claims against Tippah County proceed "to the extent [Carroll] alleges Tippah County violated his due process rights and/or otherwise wronged him by way of the Circuit Court's alleged failure to review his criminal sentence in accordance with the mandate of the Mississippi Court of Appeals." Doc. #9. The Report and Recommendation warned:

[O]bjections [to the Report and Recommendation] are required to be in writing and must be filed within fourteen (14) days of this date. Failure to timely file written objections to the proposed findings, conclusions and recommendations contained in this report will bar an aggrieved party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court." *Douglass v. United Services Automobile Association*, 79 F.3d 1415 (5th Cir. 1996).

*Id.* at 5.

Carroll acknowledged receipt of the Report and Recommendation on May 9, 2017. Doc. #10. To date, no objections to the Report and Recommendation have been filed. Accordingly, this Court's review of the Report and Recommendation is limited to plain error. *Morales v. Mosley*, No. 3:13-cv-848, 2014 WL 5410326, at \*2 (S.D. Miss. Oct. 22, 2014) (citing *Shelby v.*

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<sup>1</sup> *Spears v. McCotter*, 776 F.2d 179 (5th Cir. 1985).

*City of El Paso*, 577 F. App'x 327, 331 (5th Cir. 2014)) (“When there has been no objection to a report and recommendation, review is limited to plain error.”).

The Court has reviewed the Report and Recommendation and found no plain error. It is, therefore, **ORDERED**:

1. The May 1, 2017, Report and Recommendation [9] is **ADOPTED** as the opinion of the Court;
2. Carroll’s claims against Jim Kelly and Chris Kitchen are **DISMISSED** for failure to state a claim upon which relief can be granted; and
3. Carroll’s claims against Tippah County may **PROCEED**.

**SO ORDERED**, this 12th day of July, 2017.

**/s/Debra M. Brown**  
**UNITED STATES DISTRICT JUDGE**