

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION**

**DENNIS O'NEAL LEE**

**PLAINTIFF**

**v.**

**CAUSE NO. 1:15CV203-LG-RHW**

**CHRISTOPHER EPPS, et al.**

**DEFENDANTS**

**ORDER ADOPTING PROPOSED FINDINGS  
OF FACT AND RECOMMENDATION**

**BEFORE THE COURT** is the Proposed Findings of Fact and Recommendation [89] entered by United States Magistrate Judge Robert H. Walker on November 9, 2017, in which he recommends that: (1) the Motions for Summary Judgment [79, 82] filed by the defendants Jacqueline Banks, Thomas Byrd, Marshall Fisher, Ronald King, Jacqueline Leverette, Gloria Perry, and Centurion should be granted; (2) the Motion to Appoint Counsel [87] filed by the plaintiff Dennis O'Neal Lee should be denied; and (3) Lee's civil rights complaint should be dismissed as to all claims and all defendants. Although the Court's record reflects that Lee received a copy of the Proposed Findings of Fact and Recommendation on November 15, 2017, Lee has not filed an objection. After reviewing the record in this matter and the applicable law, the Court finds that the Proposed Findings of Fact and Recommendation should be adopted as the opinion of this Court, and Lee's lawsuit should be dismissed with prejudice.

**DISCUSSION**

Lee, a pro se prisoner, filed this section 1983 lawsuit against the defendants alleging excessive force, violation of due process, inadequate medical care, and

unconditional conditions of confinement. Judge Walker issued his Proposed Findings of Fact and Recommendation, finding that Lee's inadequate medical care claim concerning testicular pain should be dismissed for failure to exhaust administrative remedies. In the alternative, Judge Walker found that the claim should be denied on the merits because Lee received ongoing medical treatment for that condition. As for Lee's claim for inadequate medical care for a scalp condition, Judge Walker held that the claim should be dismissed, because Lee received medical care for the condition; he merely disagreed with the type of treatment he received.

Judge Walker determined that the due process claim should be denied because Lee "is asking this Court to assess credibility and weigh the evidence from [a] disciplinary hearing." (Proposed Findings of Fact and Recommendation at 13, ECF No. 89). Judge Walker found that the conditions of confinement claim is moot, because Lee has been transferred to a different facility. Judge Walker also recommended that Lee's Motion to Appoint Counsel should be denied, because Lee had adequately represented himself over the past two years and the discovery deadline has expired. In summary, Judge Walker recommends dismissal with prejudice as to all claims and all defendants.

Where no party has objected to the Magistrate Judge's report and recommendation, the Court need not conduct a de novo review of it. *See* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection

is made.") In such cases, the Court need only satisfy itself that there is no clear error on the face of the record. *Douglass v. United Serv. Auto Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996).

Having conducted the required review, the Court finds that Judge Walker's Proposed Findings of Fact and Recommendation is neither clearly erroneous nor contrary to law. As a result, the defendants' Motions for Summary Judgments [79, 82] are granted, Lee's Motion to Appoint Counsel [87] is denied, and Lee's civil rights complaint is dismissed with prejudice as to all claims and all defendants.

**IT IS, THEREFORE, ORDERED AND ADJUDGED** that the Proposed Findings of Fact and Recommendation [89] entered by United States Magistrate Judge Robert H. Walker is **ADOPTED** as the opinion of this Court.

**IT IS, FURTHER, ORDERED AND ADJUDGED** that the Motion to Appoint Counsel [87] filed by the plaintiff Dennis O'Neal Lee is **DENIED**.

**IT IS, FURTHER, ORDERED AND ADJUDGED** that the Motions for Summary Judgment [79, 82] filed by the defendants Jacqueline Banks, Thomas Byrd, Marshall Fisher, Ronald King, Jacqueline Leverette, Gloria Perry, and Centurion are **GRANTED**.

**IT IS, FURTHER, ORDERED AND ADJUDGED** that this lawsuit is hereby **DISMISSED WITH PREJUDICE**.

**SO ORDERED AND ADJUDGED** this the 8th day of December, 2017.

s/ *Louis Guirola, Jr.*  
LOUIS GUIROLA, JR.  
UNITED STATES DISTRICT JUDGE