

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION**

MICHAEL WAYNE FORD, Register No. 34810,)
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Plaintiff,)
)
)
v.) No. 07-4184-CV-C-NKL
)
)
TERI LAWSON,)
)
)
)
Defendant.)

REPORT AND RECOMMENDATION

Plaintiff Michael Wayne Ford, an inmate confined in a Missouri penal institution, brought this case under the Civil Rights Act of 1871, 42 U.S.C. § 1983, and its corresponding jurisdictional statute, 28 U.S.C. § 1343.¹

On October 1, 2008, defendants Clements, Crawford, Dormire, and Baker filed a motion to dismiss. Plaintiff has not responded in opposition.

Plaintiff's Second Amended Complaint, filed on May 13, 2008, set forth only two claims. One claim of retaliation (Count I) against defendant Teri Lawson, and one Eighth Amendment claim (Count II) against defendants Tom Clements, Larry Crawford, Dave Dormire and Charlie Baker.

On October 8, 2008, plaintiff's September 10, 2008 motion to voluntarily dismiss, without prejudice, Count II of his Second Amended Complaint for mootness was granted. Therefore, upon review, it appears the motion to dismiss filed by defendants Clements, Crawford, Dormire and Baker is moot. The only remaining claim in this case is plaintiff's retaliation claim against sole defendant Teri Lawson.²

¹This case was referred to the undersigned United States Magistrate Judge for processing in accord with the Magistrate Act, 28 U.S.C. § 636, and L.R. 72.1.

²During the telephone conference of December 30, 2008, regarding an unrelated matter (discovery dispute), plaintiff's counsel confirmed that the only remaining defendant was Teri Lawson.

IT IS, THEREFORE, RECOMMENDED that the motion of defendants Clements, Crawford, Dormire, and Baker to dismiss be denied as moot. [43]

Under 28 U.S.C. § 636(b)(1), the parties may make specific written exceptions to this recommendation within twenty days. The District Judge will consider only exceptions to the specific proposed findings and recommendations of this report. Exceptions should not include matters outside of the report and recommendation. Other matters should be addressed in a separate pleading for consideration by the Magistrate Judge.

The statute provides for exceptions to be filed within ten days of the service of the report and recommendation. The court has extended that time to twenty days, and thus, additional time to file exceptions will not be granted unless there are exceptional circumstances. Failure to make specific written exceptions to this report and recommendation will result in a waiver of the right to appeal. See L.R. 74.1(a)(2).

Dated this 30th day of December, 2008, at Jefferson City, Missouri.

/s/ William A. Knox

WILLIAM A. KNOX
United States Magistrate Judge