

**IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF OKLAHOMA**

FREDERICK RIDEOUT GRAY, JR.,	)	
	)	
Plaintiff,	)	
	)	
-vs-	)	Case No. CIV-17-0137-F
	)	
GEO GROUP INC., et al.,	)	
	)	
Defendants.	)	

**ORDER**

Plaintiff Frederick Rideout Gray, Jr, a state inmate appearing *pro se* whose pleadings are liberally construed, filed an amended complaint pursuant to 42 U.S.C. §1983 alleging violations of his constitutional rights at the Lawton Correctional Facility (LCF). Doc. no. 34. That is the current version of the complaint, and it is the version of the complaint that is challenged by the motion to dismiss addressed in this order.<sup>1</sup> Currently before this court is the Report and Recommendation of April 3, 2019, submitted by Magistrate Judge Bernard M. Jones. Doc. no. 127 (the Report). The April 3 Report addresses a motion to dismiss filed by defendants GEO Group, Inc./LCF, and LCF employees Rios, Engle, Tunstal, Washington, Black, Sattler, Clark, Dawson, Brannon and Johnson. Doc. no. 82.

The Report recommends the court grant the motion in part and deny it in part, and also recommends dismissal of certain claims upon screening. No objection has

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<sup>1</sup> Plaintiff has recently filed a second motion for leave to amend the complaint. Doc. no. 130. This order does not rule on that motion, which is pending before the Magistrate Judge.

been filed to the Report, and no request for an extension of time within which to object has been filed.

Upon review, and with there being no objection, the court finds that it agrees with the rulings recommended in the detailed Report, and that no purpose would be served by further discussion here. Accordingly, the April 3, 2019 Report is **ACCEPTED, ADOPTED** and **AFFIRMED**. As recommended in the Report, the court rules as follows.

The motion to dismiss filed by GEO Group, Inc./LCF, and LCF employees Rios, Engle, Tunstal, Washington, Black, Sattler, Clark, Dawson, Brannon and Johnson is **GRANTED IN PART** and **DENIED IN PART** (doc. no. 82), and certain claims are dismissed upon screening, all as set out below.

(1). Deliberate indifference claims against Defendants Rios, Black and Dawson are **DISMISSED** without prejudice.

(2). Retaliation claims against Defendants Engle, Tunstal, Clark and Johnson are **DISMISSED** without prejudice.

Upon screening:

(1). Official capacity claims against Defendants Rios and Clark are **DISMISSED** with prejudice.

(2). The unsanitary shower and cell claim against Defendant Tunstal is **DISMISSED** with prejudice.

(3) Alleged fabrication of misconduct claims against Defendants Engle, Tunstal, Washington, Clark, Brannon and Johnson are **DISMISSED** with prejudice.

(4) Due process claims against Defendant Clark are **DISMISSED** without prejudice.

(5) Due process claims against Defendant Dawson are **DISMISSED** with prejudice.

The Court **DENIES** defendant Sattler's motion to dismiss plaintiff's excessive force claim.

As plaintiff has stated that he did not intend to sue GEO Group, Inc./LCF, that party's motion to dismiss is **DENIED** as moot.

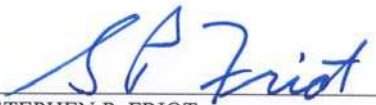
These rulings terminate Defendants Rios, Black, Dawson, Engle, Tunstal, Clark, Johnson, Washington and Brannon from this action.

The court notes the Magistrate Judge's intention to file an Enter Order which clarifies for the docket that GEO Group, Inc./LCF is not a named defendant.

Defendant Sattler, and Plaintiff's claim against him for excessive force, remains for adjudication.

This action remains referred to the Magistrate Judge.

IT IS SO ORDERED this 9<sup>th</sup> day of May, 2019.

  
STEPHEN P. FRIOT  
UNITED STATES DISTRICT JUDGE