

individual and official capacity; *
 DOC STAFF, unknown at this time, *
 individual and official capacity; *
 CBM FOOD SERVICES EMPLOYEES, *
 unknown at this time, *
 individual and official capacity, *
 *
 Defendants. *
 *

Magistrate Judge Duffy filed her Report and Recommendation in this case on March 4, 2016. The Plaintiff Rex Gard asked for numerous continuances which were granted and Mr. Gard then filed his Objection to the Report and Recommendation, Doc. 148, on August 3, 2016. The Court has reviewed the file including Plaintiff Gard’s Objections and overrules those objections. The Court adopts the Report and Recommendation in full.

There is, as was recognized in the Report and Recommendation, some breakdown in communications and in some instances what could be considered negligence, but none of those things amount to deliberate indifference resulting in an Eighth Amendment violation. In addition, there were no personal or other constitutional violations showing claimed retaliation. As a result, the objections are overruled and the claims are dismissed with prejudice.

Plaintiff Gard’s claims which were based on the Americans With Disabilities Act are not affected by either the Report and Recommendation or by this Order. Accordingly,

IT IS ORDERED:

1. That the Magistrate Judge’s Report and Recommendation, Doc. 134, is ADOPTED by the Court.
2. That Plaintiff’s Objections to the Report and Recommendation, Doc. 148, are DENIED.
3. That Defendants’ Motion for Summary Judgment, Doc. 86, is granted in its entirety and each of Plaintiff Rex Gard’s claims which are based upon 42 U.S.C. § 1983 are dismissed with prejudice.

4. That Plaintiff Gard's claims which are based upon the Americans with Disabilities Act are unaffected by this Order.

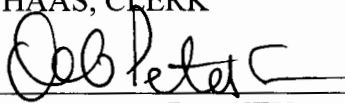
Dated this 26th day of September, 2016.

BY THE COURT:



Lawrence L. Piersol
United States District Judge

ATTEST:
JOSEPH HAAS, CLERK

BY: 
DEPUTY