

**IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

**MICHAEL MYERS, ROBERT G. NEALE,)
MARK B. MUMLEY, and GREGORY PENN,)**

Plaintiffs,)

v.)

**Case No. 3:08-295
Judge Trauger**

**TRANSCOR AMERICA, LLC,)
BILL BREES, and JOHN DOE GUARDS,)**

Defendants.)

ORDER

For the reasons expressed in the accompanying Memorandum, the Objections to Report and Recommendation filed by defendant TransCor America, LLC (Docket No. 439) and by plaintiff Mark Mumley (Docket No. 436) are **OVERRULED**. The Report and Recommendation (Docket No. 429) is **ACCEPTED** and made the findings of fact and conclusions of law of this court.

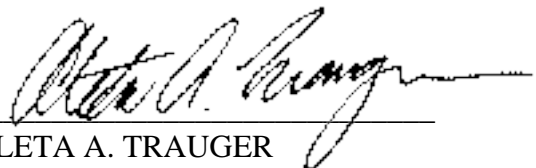
For the reasons expressed therein and herein, it is hereby **ORDERED** that the Motion to Dismiss filed by plaintiff Michael Myers (Docket No. 406) is **GRANTED** and that Myers’s claims are hereby **DISMISSED** with prejudice. It is further **ORDERED** that the Motion for Summary Judgment filed by defendant TransCor America, LLC (Docket No. 331) is **GRANTED IN PART** and **DENIED IN PART**. The claims of plaintiffs Gregory Penn and Mark Mumley are hereby **DISMISSED** with prejudice; the claims of plaintiff Robert Neale are hereby **DISMISSED** with prejudice to the extent that they are premised on state law or constitute Eighth Amendment “conditions of confinement” claims; and plaintiff Neale’s Eighth

Amendment excessive force claims will move forward for trial.

This case is returned to the Magistrate Judge for further handling under the original referral order.

It is so Ordered.

Entered this 30th day of September 2010.



ALETA A. TRAUGER
United States District Judge