

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

**MARCIA RILEY, Individually and
as Representative of the Estate of
MARCUS NYGEL ELLIOT**

Plaintiffs,

VS.

LIEUTENANT SHARON SHEELY, et al.

Defendants.

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Case No. 4:09cv425

**MEMORANDUM ADOPTING REPORT AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

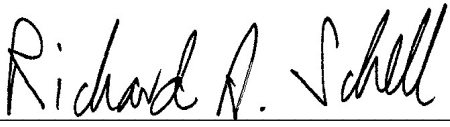
Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On March 1, 2011, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendations that the Deputy Defendants’ Motion for Judgment on the Pleadings Premised on Qualified Immunity (Dkt. 43) should be GRANTED in part and DENIED as to the claims against Lt. Sheely and that Defendant Collin County’s Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(1) and 12(c) (Dkt. 44) should be GRANTED.

Having received the report of the United States Magistrate Judge, and no objections thereto having been timely filed, this court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge’s report as the findings and conclusions of the court. Therefore, the Deputy Defendants’ Motion for Judgment on the Pleadings Premised

on Qualified Immunity (Dkt. 43) is GRANTED in part and DENIED as to the claims against Lt. Sheely and Defendant Collin County's Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(1) and 12(c) (Dkt. 44) is GRANTED. Also, pursuant to the recommendation by the Magistrate Judge, the Defendants' Motion to Strike Improper Evidence is DENIED as MOOT.

IT IS SO ORDERED.

SIGNED this the 27th day of March, 2011.



RICHARD A. SCHELL
UNITED STATES DISTRICT JUDGE