



In his objections, Davis speculates that there should be some video cameras which recorded the incidents. He states, in a conclusory manner, that Jones, Choates, Conner, Martinez, Laza, Lumpkin, Carmichael, and Taylor willingly committed acts of deliberate indifference. He goes on to state “Lumpkin sit [sic] there watching me in much pain and agony, bleeding out the back of my head, on the cell floor, and in a whole puddle of water he just looked at me, and they turned up the air-condition [sic] on me, and left me laying there, I was paralyzed in pain and could not move. My Eighth Amendment was violated. My Fourteenth Amendment was violated too.” Davis does not state any specific facts concerning any of the other defendants.

Upon review of the Plaintiff’s pleadings and objections, the Court has concluded that Davis has stated a potential claim against Officer Lumpkin. See Terry v. Inocencio, 633 F.App’x 281, 2016 U.S. App. LEXIS 2446 (5th Cir., February 12, 2016) (given plaintiff’s *pro se* status, district court should have construed objections as a motion for leave to amend the complaint), citing United States v. Riascos, 76 F.3d 93, 94 (5th Cir. 1996). The Magistrate Judge properly recommended that the remaining Defendants be dismissed from the lawsuit.

The Court has conducted a *de novo* review of the pleadings and objections in this case. Upon such *de novo* review, the Court has concluded that the Report of the Magistrate Judge is correct in recommending the dismissal of the Defendants Sgt. Jones, Lt. Choates, Captain Sharp, Sgt. Conner, Officer Martinez, Officer Laza, Sgt. Carmichael, and Sheriff Taylor. In light of the Plaintiff’s objections, he should be allowed to proceed with his claims against Officer Lumpkin. It is accordingly

**ORDERED** that the Report of the Magistrate Judge (docket no. 43) is **ADOPTED** as the opinion of the District Court insofar as this Report recommends dismissal of the Defendants Sgt. Jones, Lt. Choates, Captain Sharp, Sgt. Conner, Officer Martinez, Officer Laza, Sgt. Carmichael, and Sheriff Taylor. It is further

**ORDERED** that the motion to dismiss filed by the Defendants (docket no. 28) is **GRANTED** as to the Defendants Sgt. Jones, Lt. Choates, Captain Sharp, Sgt. Conner, Officer Martinez, Officer Laza, Sgt. Carmichael, and Sheriff Taylor. This motion is **DENIED** as to the Defendant Officer Lumpkin. It is further

**ORDERED** that the Defendant Officer Lumpkin shall have 60 days from the date of entry of this order in which to file any motion for summary judgment which he may have limited to the defense of exhaustion of administrative remedies. All other deadlines set out in the scheduling order (docket no. 19) shall be calculated in the same way, effective as of the date of entry of this order.

So **ORDERED** and **SIGNED** this **19** day of **December, 2016**.



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Ron Clark, United States District Judge