

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS

TYLER DIVISION

VINCENT CASARES, #1850085 §
VS. § CIVIL ACTION NO. 6:17cv701
DR. LINTHICUM, ET AL. §

ORDER ADOPTING REPORT AND RECOMMENDATION OF
THE UNITED STATES MAGISTRATE JUDGE

Plaintiff Vincent Casares, an inmate currently confined at the Wayne Scott Unit within the Texas Department of Criminal Justice, is proceeding pro se and in forma pauperis in the above styled and numbered civil rights lawsuit. The complaint was referred to United States Magistrate Judge, the Honorable K. Nicole Mitchell, for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On February 4, 2020, Judge Mitchell issued a Report (Dkt. #107), recommending that Defendant Williams' motion for partial dismissal (Dkt. #65) be granted for any claims against her for monetary damages and declaratory relief in her official capacity. Judge Mitchell also recommended that Plaintiff's claims against Defendant Williams for retaliation, conspiracy, and an alleged due process violation should be dismissed with prejudice. Further, Judge Mitchell recommended that Plaintiff's request for injunctive relief be denied. Plaintiff's claims of excessive force and medical deliberate indifference, however, should proceed.

A copy of this Report was sent to Plaintiff at his address with an acknowledgment card. The docket reflects that Plaintiff received a copy of the Report before it was returned to the court on February 11, 2020 (Dkt. #109). To date, however, no objections to the Report have been filed.

Because objections to Judge Mitchell’s Report have not been filed, Plaintiff is barred from de novo review by the District Judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc).

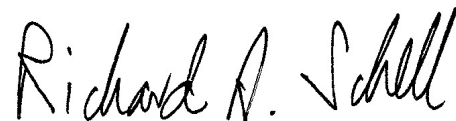
The court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the court has determined that the Report of the Magistrate Judge is correct. See *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), cert. denied, 492 U.S. 918, 109 S.Ct. 3243 (1989) (holding that where no objections to a Magistrate Judge’s Report are filed, the standard of review is “clearly erroneous, abuse of discretion and contrary to law.”). Accordingly, it is

ORDERED that the Report of the United States Magistrate Judge (Dkt. #107) is **ADOPTED** as the opinion of the court. Further, it is

ORDERED that Defendant Williams’ motion for partial dismissal (Dkt. #65) is **GRANTED** for any claims against Defendant Williams for monetary damages and declaratory relief brought against her in her official capacity—as well as Plaintiff’s claims against her concerning retaliation, conspiracy, and due process. Those claims are **DISMISSED** with prejudice. Plaintiff’s claims of excessive force and medical deliberate indifference shall remain before the court. Moreover, it is

ORDERED that Plaintiff’s request for injunctive relief is **DENIED**.

SIGNED this the 19th day of March, 2020.



RICHARD A. SCHELL
UNITED STATES DISTRICT JUDGE