

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

TYLER DIVISION

MICHAEL L. MARK, #1064829

§

VS.

§

CIVIL ACTION NO. 6:18cv309

LEE ANN SPEARS, ET AL.

§

ORDER OF PARTIAL DISMISSAL

Plaintiff Michael L. Mark, an inmate currently confined at the Powledge Unit within the Texas Department of Criminal Justice, (TDCJ), is proceeding pro se and in forma pauperis in the above styled and numbered civil rights lawsuit. Mark is complaining about alleged constitutional violations occurring at the Powledge Unit. The complaint was referred to the 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 July 30, 2019, Judge Mitchell issued a Report, (Dkt. #38), recommending that Defendants' motions to dismiss, (Dkt. ### 17, 20, and 23), be granted because Plaintiff's 2014, 2015, and 2016 claims are time-barred. Judge Mitchell also recommended that Plaintiff's claims for monetary damages against Defendants in their official capacities be dismissed by virtue of the Eleventh Amendment. A copy of this Report was sent to Plaintiff at his address; return receipt requested. Plaintiff has filed timely objections, (Dkt. #44).

In his objections, Plaintiff explains that he attached prison grievances submitted in 2017 and 2018 to his amended complaint. He argues that his 2017 and 2018 claims—allegations regarding legal mail, legal citations and materials, retaliation, and access to the law library—are not time-barred.


The court has conducted a careful de novo review of record and the Magistrate Judge's proposed findings and recommendations. See 28 U.S.C. §636(b)(1) (District Judge shall "make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made."). Upon such de novo review, the court has determined that the Report of the United States Magistrate Judge is correct insofar as it recommended dismissal of Plaintiff's time-barred claims. Accordingly, it is

ORDERED that the Report of the United States Magistrate Judge, (Dkt. #38), is **ADOPTED** as the opinion of the court insofar as it recommends dismissal of Plaintiff's time-barred claims. Further, it is

ORDERED that Defendants' motions to dismiss, (Dkt. ### 17, 20, 23), are **GRANTED** to the limited extent that Plaintiff's 2014, 2015, and 2016 claims are dismissed, with prejudice, because they are time-barred. Plaintiff's 2017 and 2018 claims will proceed before the court. Further, it is

ORDERED that any claim for monetary damages against Defendants in their official capacities is **DISMISSED**, with prejudice.

SIGNED this the 22 day of **August, 2019**.


Thad Heartfield
United States District Judge