

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

**TONEY GIBSON AND KEITH WHITE,**

Plaintiffs,

v.

**THE CITY OF GARLAND AND  
GLENN BREYSACHER,**

Defendants.

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

Civil Action No. **3:16-CV-157-L**

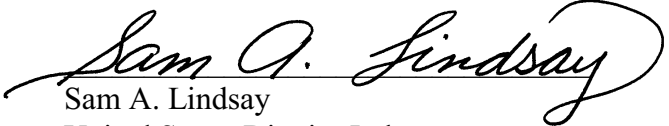
**ORDER**

Before the Defendant’s Partial Motion to Dismiss Plaintiffs’ Second Amended Complaint (“Doc. 26), filed May 19, 2016, filed by the City of Garland; and Defendant’s Motion to Dismiss (Doc. 30), filed July 7, 2016, by Glenn Breysacher. On September 1, 2016, Magistrate Judge David L. Horan entered the Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”), recommending that the court grant both motions to dismiss and dismiss without prejudice Plaintiffs’ claims under 42 U.S.C. § 1983, and allow Plaintiffs to replead their claims. Plaintiff filed objections to the Report, contending that their pleadings are sufficient and requesting, in the alternative, that they be allowed to replead their claims under section 1983. The City of Garland filed a response in opposition contending that Plaintiff should not be allowed to amend their pleadings.

Having reviewed the pleadings, file, record in this case, and Report, and having conducting a de novo review of that portion of the Report to which objection was made, the court determines that the findings and conclusions of the magistrate judge are correct, and **accepts** them as those of

the court. Accordingly, the court **grants** the motions to dismiss (Docs. 26, 30), **overrules** Plaintiffs' objections to the Report, and **allows** Plaintiffs one more opportunity to cure the deficiencies noted in the Report and the City of Garland's response to their objections. Plaintiffs shall file their amended complaint by **October 25, 2016**. *No further amendments will be permitted. Failure to file an amended complaint by October 25, 2016, as required by this order, may result in this case being dismissed with prejudice under Rule 12(b)(6) or without prejudice under Rule 41(b) for failure to prosecute and comply with a court order.*

**It is so ordered** this 5th day of October, 2016.

  
Sam A. Lindsay  
United States District Judge