

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

**STEVEN S. SIMS,**

Plaintiff,

v.

**UNITED STATES, *et al.*,**\*

Defendants.

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Civil Action No. **3:17-CV-3203-L**

**ORDER**

Before the court are Before the Court is Defendants’ Garland Independent School District (“GISD”), Gradyne Brown, and Darren Hemphill (collectively, the “School District Defendants”), Motion to Dismiss Plaintiff’s Third Amended Complaint under Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6) (Doc. 60), filed December 31, 2018; Defendant Juana S. Acosta’s Amended Motion to Dismiss Plaintiff’s Third Amended Complaint under Federal Rules of Civil Procedure 12(b)(5) and 12(b)(6) (Doc. 58), filed December 31, 2018; Defendant Dallas Fire-Rescue Department’s and Dallas Police Department’s Rule 12(b)(6) Motion to Dismiss (Doc. 54), filed December 21, 2018; and Defendants’ Dallas Police Officers Andrew Lehocky, Howard Leftwich, Andrew Fuka, and Lisette Rivera Rule 12(b)(6) Motion to Dismiss (Doc. 62), filed December 31, 2018.

On July 27, 2019, the United States Magistrate Judge entered the Findings, Conclusions and Recommendation of the United States Magistrate Judge (Docs. 111, 112, 113) (“Reports”),

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\* For purposes of clarity, the court generally lists the names of all defendants, particularly when entry of judgment against some or all of the defendants is warranted; however, as noted in the magistrate judge’s Reports, Plaintiff has asserted more than 23 claims against 42 named Defendants in this case, so listing all named Defendants is not practical.

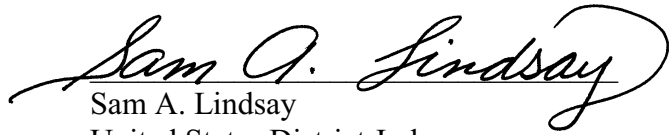
recommending that the court: (1) grant Defendants' Garland Independent School District, Gradyne Brown, and Darren Hemphill Motion to Dismiss (Doc. 60), dismiss Plaintiff's state-law tort claims against these Defendants under Rule 12(b)(1) for lack of subject matter jurisdiction, and dismiss with prejudice Plaintiff's federal claims against these Defendants under Rule 12(b)(6) for failure to state a claim; (2) grant Defendant Juana S. Acosta's Amended Motion to Dismiss (Doc. 58) and dismiss with prejudice all claims by Plaintiff against her; and (3) grant Defendant Dallas Fire-Rescue Department's and Dallas Police Department's Rule 12(b)(6) Motion to Dismiss (Doc. 54) and dismiss with prejudice all claims by Plaintiff against these Defendants; and (4) grant Defendants' Dallas Police Officers Andrew Lehocky, Howard Leftwich, Andrew Fuka, and Lisette Rivera Rule 12(b)(6) Motion to Dismiss (Doc. 62) and dismiss with prejudice all claims by Plaintiff against these Defendants. No objections to the Reports were filed by Plaintiff.

Having reviewed the motions, briefs, pleadings, and Reports, 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 (1) **grants** Defendants' Garland Independent School District, Gradyne Brown, and Darren Hemphill Motion to Dismiss (Doc. 60), **dismisses without prejudice** Plaintiff's state-law tort claims against these Defendants under Rule 12(b)(1) for lack of subject matter jurisdiction, and **dismisses with prejudice** Plaintiff's federal claims against these Defendants under Rule 12(b)(6) for failure to state a claim; (2) **grants** Defendant Juana S. Acosta's Amended Motion to Dismiss under Rule 12(b)(6) (Doc. 58) and **dismisses with prejudice** all claims by Plaintiff against her and **denies as moot** Juana S. Acosta's Amended Motion to Dismiss under Rule 12(b)(5); (3) **grants** Defendant Dallas Fire-Rescue Department's and Dallas Police Department's Rule 12(b)(6) Motion to Dismiss (Doc. 54) and **dismisses with prejudice** all claims by Plaintiff against

these Defendants; and (4) **grants** Defendants' Dallas Police Officers Andrew Lehocky, Howard Leftwich, Andrew Fuka, and Lisette Rivera Rule 12(b)(6) Motion to Dismiss (Doc. 62) and **dismisses with prejudice** all claims by Plaintiff against these Defendants. No objections to the Reports were filed by Plaintiff.

Further, as no claims remain against Defendants Garland Independent School District, Gradyne Brown, Darren Hemphill, Juana S. Acosta, Dallas Fire-Rescue Department, Dallas Police Department, and Dallas Police Officers Andrew Lehocky, Howard Leftwich, Andrew Fuka, and Lisette Rivera, the court expressly determines, pursuant to Federal Rule of Civil Procedure 54(b), that there is no just reason to delay the entry of final judgment in this case as to these Defendants and **directs** the clerk of the court to enter a final judgment as to them with respect to the claims dismissed with prejudice.

**It is so ordered** this 13th day of August, 2019.

  
Sam A. Lindsay  
United States District Judge