

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

STEPHEN THOMAS,
Institutional ID No. 1657173
SID No. 6912601

Plaintiff,

v.

ADAM CASTILLO, *et al.*,

Defendants.

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CIVIL ACTION NO. 5:17-CV-00298-C

ORDER

The United States Magistrate Judge entered a Report and Recommendation on July 31, 2018, and as of this date, no objections have been filed. In the Report and Recommendation, the Magistrate Judge recommended that the Court find as follows:

- (1) Plaintiff's claims for deliberate indifference, failure to report, and failure to provide meals should be dismissed with prejudice for failure to state a claim upon which relief may be granted pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A.
- (2) Plaintiff's claims against Defendants Nicholas Caro and Leticia Clark should be dismissed without prejudice due to his failure to timely effectuate service.
- (3) Plaintiff's claims against Defendants Adam Castillo, and Santiago Martinez for excessive use of force and against Defendant Frank Foley for bystander liability should proceed through the course of litigation by implementation of a scheduling order.

The Court reviewed the Report and Recommendation of the Magistrate Judge for plain error. Finding none, the Court **ACCEPTS** the findings, conclusions, and recommendation of the United States Magistrate Judge.

It is therefore ORDERED:

- (1) Plaintiff's claims for deliberate indifference, failure to report, and failure to provide meals shall be dismissed with prejudice for failure to state a claim upon which relief may be granted pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A.
- (2) Plaintiff's claims against Defendants Nicholas Caro and Leticia Clark shall be dismissed without prejudice due to his failure to timely effectuate service.
- (3) Plaintiff's claims against Defendants Adam Castillo and Santiago Martinez for excessive use of force and against Defendant Frank Foley for bystander liability should proceed through the course of litigation. The Court will enter a scheduling order for the remaining claims by separate order.

There is no just reason for delay in entering a final judgment and final judgment should be entered as to the above-named Defendants and claims pursuant to Federal Rule of Civil Procedure 54(b).

JUDGMENT SHALL BE ENTERED ACCORDINGLY.

Dated September 7, 2018.



SAM R. CUMMINGS
Senior United States District Judge