

United States District Court
Southern District of Texas

ENTERED

March 01, 2018

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

AUNDRA B JACKSON,

Plaintiff,

VS.

BRYAN GORDY, *et al*,

Defendants.

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CIVIL NO. 2:16-CV-00338

ORDER

The Court is in receipt of Plaintiff’s October 13, 2016, amended complaint, Dkt. No. 12; the October 28, 2016, Memorandum and Recommendation (“M&R”) of the Magistrate Judge to whom this case was referred, Dkt. No. 13; Plaintiff’s November 7, 2016, objection to the M&R, Dkt. No. 17; Defendants Pamela Wagner (“Wagner”), Janet White (“White”), and April Flores’s (“Flores”) January 23, 2017, motion to dismiss, Dkt. No. 26; the May 5, 2017, M&R, Dkt. No. 61; Defendants Jeremy De Los Santos (“Santos”), Captain Martinez (“Martinez”), and Nicholas Santellano’s (“Santellano”) June 20, 2017, motion for summary judgment, Dkt. No. 71; Wagner, White, Flores, and Robert Schales’s (“Schales”) August 7, 2017, motion for summary judgment, Dkt. No. 86; Plaintiff’s September 8, 2017, motion for leave to amend complaint, Dkt. No. 98; the January 8, 2018, M&R, Dkt. No. 108; and the February 14, 2018, objection to the M&R, Dkt. No. 111. The Court considers each M&R and any associated motion or objection.

I. October 28, 2016, M&R

The Court reviews objected-to portions of a Magistrate Judge’s proposed findings and recommendations de novo. 28 U.S.C. § 636(b)(1). Plaintiff’s objection is frivolous, conclusory, general, or contains no arguments that the October 28, 2016, M&R has not already considered. *See* Dkt. Nos. 13, 17; *Battle v. United States Parole Comm’n*, 834 F.2d 419 (5th Cir. 1987) (determining that a district court need not consider frivolous, conclusive, or general objections). After independently

reviewing the record and considering the applicable law, the Court adopts the proposed M&R in its entirety. Dkt. No. 12. Thus, the Court **OVERRULES** Plaintiff's objection. Dkt. No. 17.

II. May 5, 2017, M&R

Petitioner did not object to the May 5, 2017, M&R. *See* 28 U.S.C. § 636(b)(1) (setting a 14-day deadline to file objections; FED. R. CIV. P. 72(b)(2) (same); *see also* Dkt. No. 61 at 11 (advising parties of the 14-day deadline). After independently reviewing the record and considering the applicable law, the Court adopts the proposed M&R in its entirety. Dkt. No. 61.

III. January 8, 2018, M&R

The Court reviews objected-to portions of a Magistrate Judge's proposed findings and recommendations de novo. 28 U.S.C. § 636(b)(1). Plaintiff's objection is frivolous, conclusory, general, or contains no arguments that the January 8, 2018, M&R has not already considered. *See* Dkt. Nos. 108, 111; *Battle*, 834 F.2d at 419. After independently reviewing the record and considering the applicable law, the Court adopts the proposed M&R in its entirety. Dkt. No. 108. Thus, the Court **OVERRULES** Plaintiff's objection. Dkt. No. 111.

The Court hereby:

- **RETAINS** Plaintiff's failure to protect claims against Martinez, De Los Santos, and Santellano;
- **RETAINS** Plaintiff's deliberate indifference claims against Wagner, White, Flores, and Schales;
- **DISMISSES WITH PREJUDICE** the remaining claims against the remaining defendants;
- **DENIES** Wagner, White, and Flores's motion to dismiss, Dkt. No. 26;
- **GRANTS** Santos, Martinez, and Santellano's motion for summary judgment, Dkt. No. 71;
- **GRANTS** Wagner, White, Flores, and Schales's motion for summary judgment, Dkt. No. 86;
- **DENIES** Plaintiff's motion for leave to amend complaint, Dkt. No. 98; and

- **DISMISSES WITH PREJUDICE** this action.

The Court will order entry of final judgment separately.

SIGNED this 1st day of March, 2018.

A handwritten signature in black ink, appearing to read "Hilda Tagle", written over a horizontal line.

Hilda Tagle
Senior United States District Judge