

United States District Court
Southern District of Texas

ENTERED

January 31, 2018

David J. Bradley, Clerk

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

THOMAS EARL GLADDEN, SR.,	§	
	§	
Plaintiff,	§	
VS.	§	CIVIL NO. 2:16-CV-411
	§	
MATT BARBER, <i>et al</i> ,	§	
	§	
Defendants.	§	

ORDER

The Court has before it the December 15, 2016, Memorandum and Recommendation (“M&R”) of the Magistrate Judge to whom this case was referred (Dkt. No. 19), recommending that the Court retain certain claims and dismiss others; Defendants’ Partial Motion for Summary Judgment for Failure to Properly Exhaust All Available Administrative Remedies (Dkt. No. 27); the Magistrate Judge’s June 16, 2017, M&R recommending that the Court grant the motion (Dkt. No. 36); and Plaintiff’s objections to both M&Rs (Dkt. Nos. 21, 39).

After an independent review of the record and applicable law, the Court **OVERRULES** Plaintiff’s objections (Dkt. Nos. 21, 39). Accordingly, the Court **ORDERS** the following:

- First, the Court **ADOPTS** the Magistrate Judge’s December 15, 2016, M&R (Dkt. No. 19). The Court therefore **RETAINS** Plaintiff’s excessive force claim against Sergeant Salinas and Sergeant Mackey and **DISMISSES** Plaintiff’s remaining claims against all other defendants except Warden Martinez.
- Second, the Court **ADOPTS** the Magistrate Judge’s June 16, 2017, M&R (Dkt. No. 36). The Court therefore **GRANTS** Defendants’ Motion for Partial Summary Judgment (Dkt. No. 27) and **DISMISSES WITHOUT PREJUDICE** the above-captioned action for non-exhaustion of administrative remedies.

Final Judgment will be entered separately in accordance with Federal Rule of Civil Procedure 58.

SIGNED this 31st day of January, 2018.

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

Hilda Tagle
Senior United States District Judge