

United States District Court
Southern District of Texas

ENTERED

September 07, 2021

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

QUIRINO TORRES,

Plaintiff,

VS.

ALDENE SOUTHMAYD III, *et al.*,

Defendants.

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CIVIL ACTION NO. 2:21-CV-37

ORDER ADOPTING MEMORANDUM AND RECOMMENDATION

Before the Court is Magistrate Judge Jason B. Libby’s screening Memorandum and Recommendation (M&R) pursuant to the Prison Litigation Reform Act. *See* 42 U.S.C. § 1997e(c); 28 U.S.C. §§1915(e)(2), 1915A. (D.E. 10). The M&R recommends that the Court retain Plaintiff’s deliberate indifference claims against Defendants Sheriff Southmayd (“Defendant Southmayd”) and Jail Administrator Paige (“Defendant Paige”) in their individual capacities and dismiss with prejudice Plaintiff’s claim against Bee County Jail and Plaintiff’s claims against Defendants Southmayd and Paige in their official capacities for failure to state a claim. *Id.* at 10.

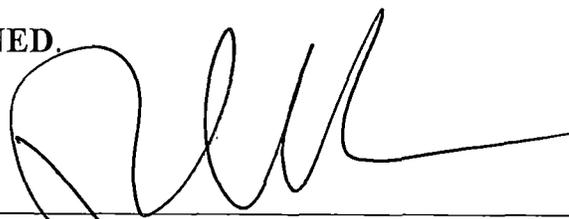
The parties were provided proper notice of, and the opportunity to object to, the Magistrate Judge’s M&R. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b); General Order No. 2002-13. No objection has been filed. When no timely objection has been filed, the district court need only determine whether the magistrate judge’s memorandum and recommendation is clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (per curiam); *Powell v. Litton Loan Servicing, LP*, No. CIV. A.

H-14-2700, 2015 WL 3823141, at *1 (S.D. Tex. June 18, 2015).

Having carefully reviewed the proposed findings and conclusions of the Magistrate Judge, the filings of the parties, the record, and the applicable law, and finding that the M&R is not clearly erroneous or contrary to law, the Court **ORDERS** the following:

- (1) The Court **ADOPTS** the M&R in its entirety. (D.E. 10).
- (2) Plaintiff's claim against the Bee County Jail is **DISMISSED with prejudice** for failure to state a claim and/or as frivolous pursuant to 28 U.S.C. §§ 1915(e)(2)(B) and 1915A(b)(1) and the Clerk of Court is **DIRECTED** to **TERMINATE** Bee County Jail from the docket sheet.
- (3) Plaintiff's claims against Defendants Southmayd and Paige in their official capacities are **DISMISSED with prejudice**.
- (4) Plaintiff's deliberate indifference claims against Defendants Southmayd and Paige in their individual capacities are **RETAINED**.

SO ORDERED.



DAVID S. MORALES
UNITED STATES DISTRICT JUDGE

Dated: Corpus Christi, Texas
September 7, 2021