

Jacoby v. PREA Coordinator, Not Reported in Fed. Supp. (2017)

2017 WL 2957825  
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United States District Court, N.D. Alabama, Northeastern Division.

Brent JACOBY, Plaintiff,  
v.  
PREA COORDINATOR, et al., Defendants.

Case No. 5:17-cv-00053-MHH-TMP  
|  
Signed 07/11/2017

#### Attorneys and Law Firms

Brent Jacoby, Elmore, AL, pro se.

#### ORDER

MADLINE HUGHES HAIKALA, UNITED STATES DISTRICT JUDGE

\*1 On April 4, 2017, the magistrate judge entered a report in which he recommended that the Court dismiss without prejudice plaintiff Brent Jacoby's claims against defendants Loggins, Surret, Mercado, and PREA Coordinator John Doe pursuant to 28 U.S.C. § 1915A(b) for failing to state a claim upon which relief can be granted. (Doc. 12, p. 28). The magistrate judge also recommended that the Court dismiss without prejudice pursuant to 28 U.S.C. § 1915A(b) Mr. Jacoby's claims against defendant Gordy, except for the failure to protect claim. (*Id.*). Although the magistrate judge advised Mr. Jacoby of his right to file specific written objections within fourteen (14) days, Mr. Jacoby has not filed objections to the report and recommendation.<sup>1</sup>

A district court "may accept, reject, or modify, in whole or part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). A district court reviews legal conclusions in a report de novo and reviews for plain error factual findings to which no objection is made. *Garvey v. Vaughn*, 993 F.2d 776, 779 n.9 (11th Cir. 1993); *see also LoConte v. Dugger*, 847 F.2d 745, 749 (11th Cir. 1988); *Macort v. Prem, Inc.*, 208 Fed. Appx. 781, 784 (11th Cir. 2006).<sup>2</sup>

The Court finds no misstatements of law in the report and no plain error in the magistrate judge's description of the relevant facts. Therefore, the Court adopts the magistrate judge's report and accepts his recommendation. The Court dismisses without prejudice pursuant to 28 U.S.C. § 1915A(b) all of Mr. Jacoby's claims except for the failure to protect claim against defendant Gordy.

The Court commits this action to the magistrate judge for further proceedings regarding Mr. Jacoby's failure to protect claim against defendant Gordy.

**DONE and ORDERED** this July 11, 2017.

<sup>1</sup> On April 27, 2017, the Court received from Mr. Jacoby a notice of change of address. (Doc. 13). Therefore, the magistrate judge asked the Clerk to send the report and recommendation to Mr. Jacoby at his new address. (Doc. 14). The April 28, 2017 order allowed Mr. Jacoby an additional fourteen days to file objections. (Doc. 14, pp. 1-2).

<sup>2</sup> When a party objects to a report in which a magistrate judge recommends dismissal of a claim, a district court must "make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. §§ 636(b)(1)(B)-(C).