

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

FILED
FEB 17 2017
CLERK

JAMES IRVING DALE, * CIV 14-4102
* Plaintiff, *
* vs. * ORDER
*
* CORY TYLER; ANDRA GATES; *
* MICHAEL JOE HANVEY; *
* MIKE DOYLE; TAMMY DeJONG; *
* KELLY TJEERDSMA; *
* MICHAEL MEYER; *
* REBECCA SCHIEFER; *
* GEORGE DEGLMAN; *
* UNKNOWN DEPARTMENT OF *
* CORRECTIONS MEDICAL STAFF; *
* UNKNOWN DEPARTMENT OF *
* CORRECTIONS STAFF; and *
* ROBERT DOOLEY; *
* Defendants. *
*

In his Objections, Doc. 94, to the Magistrate Judge's Amended Report and Recommendation, Doc. 93, Plaintiff Bell makes additional allegations regarding Defendants Kelly Tjeerdsma and Corey Tyler. These allegations coupled with past allegations are enough for a punitive damage claim against those two Defendants to withstand the Motion to Dismiss. Accordingly, the Amended Report and Recommendation is adopted in its entirety except that the punitive damage claims against Kelly Tjeerdsma and Corey Tyler can proceed and punitive damage claims against the remaining Defendants are dismissed. Accordingly,

IT IS ORDERED:

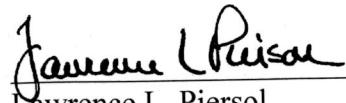
1. That the Magistrate Judge's Amended Report and Recommendation, Doc. 93, is adopted in its entirety except that the punitive damage claims against Kelly Tjeerdsma and Corey Tyler can proceed and punitive damage claims against

the remaining Defendants are dismissed.

2. That the Magistrate's Judge's Report and Recommendation, Doc. 91, is moot.
3. That Plaintiff Dale's Objections to the Report and Recommendation, Doc. 92, are moot.
4. That Plaintiff Dale's Objections to the Amended Report and Recommendation, Doc. 94, are granted in part and denied in part.
5. That the Defendants' Motion to Dismiss, Doc. 78, is granted in part and denied in part as follows:
 - A. That Plaintiff Dale's claims for declaratory and injunctive relief on all his claims are dismissed with prejudice.
 - B. That Plaintiff Dale's claims for punitive damages on all his claims are dismissed with prejudice, except that the punitive damage claims against Kelly Tjeerdsma and Corey Tyler may proceed.
 - C. That Plaintiff Dale's claims for compensatory and nominal damages on his First and Eighth Amendment claims may proceed.

Dated this 17th day of February, 2017.

BY THE COURT:



Lawrence L. Piersol
United States District Judge

ATTEST:
JOSEPH HAAS, CLERK

BY: 

DEPUTY