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CLERK OF DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY AD

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

AUSTIN LAWYERS GUILD, CARL §
GOSSETT, DAVID GRASSBAUGH, §
MARK SAMPSON, FRANCIS §
WILLIAMS, AND THE PRISON §
JUSTICE LEAGUE, §
PLAINTIFFS, §

V. §

CAUSE NO. 1:14-CV-366-LY

SECURUS TECHNOLOGIES, INC., §
TRAVIS COUNTY SHERIFF'S OFFICE, §
SHERIFF GREG HAMILTON (IN HIS §
OFFICIAL CAPACITY), TRAVIS §
COUNTY DISTRICT ATTORNEY'S §
OFFICE, DISTRICT ATTORNEY §
ROSEMARY LEHMBERG (IN HER §
OFFICIAL CAPACITY), TRAVIS §
COUNTY ATTORNEY'S OFFICE, AND §
COUNTY ATTORNEY DAVID §
ESCAMILLA (IN HIS OFFICIAL §
CAPACITY), §
DEFENDANTS. §

ORDER ON REPORT AND RECOMMENDATION

Before the court in the above-styled and numbered cause are Defendants Hamilton, Lehmberg and Escamilla's Motion to Dismiss Pursuant to Rule 12(b)(1), Rule 12(b)(6) filed August 6, 2014 (Clerk's Doc. No. 27); Defendants Travis County Sheriff's Office, Travis County District Attorney's Office, and Travis County Attorney's Office's Motion to Dismiss Pursuant to Rule 12(b)(1), 12(b)(6) filed August 6, 2014 (Clerk's Doc. No. 28); Defendant Securus Technologies, Inc.'s Renewed Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6) filed August 6, 2014 (Clerk's Doc. No. 29); Plaintiffs' Response to Defendants' Renewed Motions to Dismiss filed September 5, 2014 (Clerk's Doc. No. 34); Reply Brief in Support of Defendant Securus

Technologies, Inc.'s Renewed Motion to Dismiss Pursuant to Fed. R. Civ. P 12(b)(1) and 12(b)(6) filed September 26, 2014 (Clerk's Doc. No. 36); and Travis County Defendants' Reply to Plaintiffs' Response to Defendants' Renewed Motions to Dismiss filed September 26, 2014 (Clerk's Doc. No. 38).

The above-listed motions were referred to the United States Magistrate Judge for findings and recommendations pursuant to 28 U.S.C. § 636(b), Federal Rule of Civil Procedure 72, and Rule 1(d) of Appendix C of the Local Rules of the United States District Court for the Western District of Texas, as amended. The magistrate judge filed his Report and Recommendation on February 4, 2015 (Clerk's Doc. No. 52), recommending that this court grant in part and deny in part Defendants' motions.

Pursuant to 28 U.S.C. § 636(b) and Rule 72(b) of the Federal Rules of Civil Procedure, a party may serve and file specific, written objections to the proposed findings and recommendations of the Magistrate Judge within 14 days after being served with a copy of the Report and Recommendation, and thereby secure a *de novo* review by the District Court. A party's failure to timely file written objections to the proposed findings, conclusions, and recommendation in a Report and Recommendation bars that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the District Court. *See Douglass v. United Services Auto Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (*en banc*).

Defendant Securus Technologies, Inc. and the Travis County Defendants timely filed objections on February 18, 2015 (Clerk's Doc. Nos. 55 and 56), to which Plaintiffs responded (Clerk's Doc. No.61). In light of Defendants' objections, the court has undertaken a *de novo* review of the entire case file in this cause. The court, having carefully reviewed the objections, motions,

responses, replies, and entire record in the cause, and finding no error, accepts and adopts the report and recommendation as filed for substantially the reasons articulated therein.

IT IS THEREFORE ORDERED that the objections contained in Defendants' Objections to the Report and Recommendation of the United States Magistrate Judge filed February 18, 2015 (Clerk's Doc. Nos. 55 and 56) are **OVERRULED**.

IT IS FURTHER ORDERED that the Report and Recommendation of the United States Magistrate Judge (Clerk's Doc. No. 52) filed in this cause is hereby **ACCEPTED** and **ADOPTED** by the court.

IT IS FINALLY ORDERED that Defendants Hamilton, Lehmberg and Escamilla's Motion to Dismiss Pursuant to Rule 12(b)(1), Rule 12(b)(6) (Clerk's Doc. No. 27), Defendants Travis County Sheriff's Office, Travis County District Attorney's Office, and Travis County Attorney's Office's Motion to Dismiss Pursuant to Rule 12(b)(1), 12(b)(6) (Clerk's Doc. No. 28), and Defendant Securus Technologies, Inc.'s Renewed Motion to Dismiss Pursuant to Fed. R. Civ. P. 12(b)(1) and 12(b)(6) (Clerk's Doc. No. 29) is **GRANTED** to the following extent: (1) Defendants Travis County Sheriff's Office, Travis County District Attorney's Office, and Travis County Attorney's Office are **DISMISSED** as defendants from this action, and (2) Plaintiff's claim for violation of the right to access the courts under the First, Fifth, and Fourteenth Amendments is **DISMISSED WITH PREJUDICE**. In all other respects, the motions are **DENIED**.

SIGNED this 23rd day of March, 2015.



LEE YEAKEL
UNITED STATES DISTRICT JUDGE