

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION

GERALD HARRIS §  
v. § CIVIL ACTION NO. 6:09cv174  
GREGG COUNTY JAIL §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION  
OF THE UNITED STATES MAGISTRATE JUDGE  
AND ENTERING FINAL JUDGMENT

The Plaintiff Gerald Harris, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged deprivations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

The Magistrate Judge ordered Harris to pay the filing fee of \$350.00 or to file an application for leave to proceed *in forma pauperis* which was accompanied by a certified inmate trust account data sheet from the institution in which he was confined. When Harris did not respond to this order, the Magistrate Judge issued a Report on August 3, 2009, recommending that the lawsuit be dismissed. A copy of this Report was sent to Harris at his last known address, return receipt requested, but no objections were received; accordingly, Harris is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in the cause and the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 8) is hereby ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil rights lawsuit be and hereby is DISMISSED without prejudice. It is further

ORDERED that any and all motions which may be pending in this cause are hereby DENIED.

**SIGNED this 27th day of October, 2009.**

  
MICHAEL H. SCHNEIDER  
UNITED STATES DISTRICT JUDGE