

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

TYLER DIVISION

JAVIER RIVERA FRANCO, #1376945 §
v. § CIVIL ACTION NO. 6:18cv90
DIRECTOR, TDCJ-CID §

MEMORANDUM OPINION ADOPTING THE REPORT
OF THE UNITED STATES MAGISTRATE JUDGE

Plaintiff Javier R. Franco, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged deprivations of his constitutional rights. The case was referred to the United States Magistrate Judge, the Honorable K. Nicole Mitchell.

On March 6, 2018, Franco filed a motion requesting that his lawsuit be voluntarily dismissed, (Dkt. #8). Subsequently, on April 16, 2018, Judge Mitchell issued a Report, (Dkt. #10), recommending that Franco's motion requesting that his lawsuit be dismissed be granted. A copy of this Report was sent to Franco at his address, return receipt requested. The docket illustrates that Franco received a copy of the Report on April 20, 2018, (Dkt. #11). However, to date, no objections to the Report have been filed.

Consequently, Franco 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 proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Auto. Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See*


United States v. Wilson, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge’s Report are filed, the standard of review is “clearly erroneous, abuse of discretion and contrary to law.”). Accordingly, it is

ORDERED that the Report of the United States Magistrate Judge, (Dkt. #10), is **ADOPTED** as the opinion of the court. Further, it is

ORDERED that Plaintiff’s motion to dismiss his case, (Dkt. #8), is **GRANTED**. Plaintiff’s civil rights lawsuit is **DISMISSED** on his own motion. Finally, it is

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

SIGNED this the 2 day of **January, 2019**.



Thad Heartfield
United States District Judge