

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

JESSE COPELAND §
v. § CIVIL ACTION NO. 9:08cv94
BRAD LIVINGSTON, ET AL. §

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

The Plaintiff Jesse Copeland, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations 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.

Copeland complained of an incident on July 21, 2006, saying that an Islamic religious service which he was attending was disrupted. He received a disciplinary case as a result of this incident, charging him with failure to obey an order. As a result of the incident, Copeland was not permitted to return to Islamic services for approximately six months. Copeland also complained of certain policies which he says were implemented by the unit administration.

The Magistrate Judge conducted an evidentiary hearing on February 19, 2009. Following this hearing, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed as frivolous. The Magistrate Judge further recommended that the Court decline jurisdiction over Plaintiff's state-law claims under the Texas Religious Freedom and Restoration Act, and that the statute of limitations on these claims be tolled from the date of filing of the lawsuit until 30 days after the date of entry of final judgment, pursuant to 28 U.S.C. §1367(d).

A copy of this Report was sent to Copeland's last known address, return receipt requested, but was returned marked "refused." No objections have been received, and so Copeland 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 carefully reviewed the pleadings, documents, and testimony in this case, as well as 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 is hereby ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED with prejudice as frivolous and for failure to state a claim upon which relief may be granted. It is further

ORDERED that the Court declines jurisdiction over the Plaintiff's state law claims, including but not limited to his claims under the Texas Religious Freedom and Restoration Act, and so such claims are DISMISSED with prejudice as to their refiling in federal court, but without prejudice as to their refiling in the courts of the State of Texas. The statute of limitations on these claims shall be tolled from the date that the lawsuit was filed, May 10, 2008, until 30 days after the date of entry of final judgment. 28 U.S.C. §1367(d). Finally, it is

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

So **ORDERED** and **SIGNED** this 7 day of **August, 2009**.



Ron Clark, United States District Judge