

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

FRANK SANSPREE §
VS. § CIVIL ACTION NO. 9:19-CV-80
MICHAEL J. BUTCHER, *et al.*, §

MEMORANDUM OPINION AND ORDER OVERRULING OBJECTIONS
AND ADOPTING REPORT AND RECOMMENDATION

Plaintiff, Frank Sanspree, an inmate confined at the Polunsky Unit with the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against defendants Michael J. Butcher, Aaron B. Baker, Brian Collier, John R. Delapp, Jr., and Miguel Garcia Martinez.

The Court referred this matter to the Honorable Keith Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this Court. The Magistrate Judge recommends this action be dismissed pursuant to 28 U.S.C. § 1915(g).

The Court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the records, and pleadings. Plaintiff filed objections to the Report and Recommendation of United States Magistrate Judge. This requires a *de novo* review of the objections in relation to the pleadings and applicable law. *See* FED. R. CIV. P. 72(b).

After a careful review, the Court finds plaintiff's objections lacking in merit. As outlined by the Magistrate Judge, plaintiff may not bring this action *in forma pauperis* unless he was in imminent danger of serious physical injury at the time he filed this lawsuit. *Banos v. O'Guin*, 144 F.3d 883, 883 (5th Cir. 1998). Plaintiff's complaint revolves around events where his property was destroyed by his cellmate. In no way does this allegation even remotely indicate plaintiff was in imminent danger of serious physical injury at the time he filed the lawsuit. Even in his objections,


plaintiff still complains only that TDCJ violated policy. Plaintiff has not pleaded facts sufficient to support the imminent danger exception.

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct, and the report of the Magistrate Judge is **ADOPTED**. A Final Judgment will be entered in accordance with the recommendations of the Magistrate Judge.

So Ordered and Signed

Oct 20, 2019



Ron Clark, Senior District Judge