

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

AZAEL DYTHIAN PERALES,)
)
Plaintiff,)
)
VS.)
)
UNITED STATES OF AMERICA,)
ET AL.,)
)
Defendants.)

CIVIL ACTION NO.
3:17-CV-3064-G (BK)

**ORDER ACCEPTING FINDINGS, CONCLUSIONS AND
RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE**

The United States Magistrate Judge made findings, conclusions and a recommendation in this case. No objections were filed. The court reviewed the proposed findings, conclusions and recommendation for plain error. Finding none, the court **ACCEPTS** the findings, conclusions and recommendation of the United States Magistrate Judge.

It is therefore **ORDERED** that the complaint is summarily **DISMISSED** with prejudice as frivolous, *see* 28 U.S.C. § 1915(e)(2)(b), and that plaintiff is **BARRED** from filing future civil actions in this court without either paying the applicable filing


fee or filing an appropriate motion for leave to file accompanied by a proposed complaint and a motion for leave to proceed *in forma pauperis*. The clerk of court is **ORDERED** to docket -- for administrative purposes only -- any future civil action by plaintiff that does not comply with these requirements and immediately close the case after placing a copy of the sanction order in the file, with no other action taken on non-compliant submissions. For purposes of this sanction, “filing” includes civil actions, documents, claims, or requests received by the court in paper or via transfer, removal, or submission to the court’s emergency filing account.

The court prospectively **CERTIFIES** that any appeal of this action would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3); FED. R. APP. P. 24(a)(3). In support of this certification, the court adopts and incorporates by reference the magistrate judge’s findings, conclusions and recommendation. *See Baugh v. Taylor*, 117 F.3d 197, 202 and n.21 (5th Cir. 1997). Based on the findings and recommendation, the court finds that any appeal of this action would present no legal point of arguable merit and would, therefore, be frivolous. *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983).^{*} In the event of an appeal, plaintiff may challenge this certification by filing a separate motion to proceed *in forma pauperis* on appeal

^{*} Federal Rule of Appellate Procedure 4(a) governs the time to appeal an order. A timely notice of appeal must be filed even if the district court certifies an appeal as not taken in good faith.

with the Clerk of the Court, U.S. Court of Appeals for the Fifth Circuit. See *Baugh*,
117 F.3d at 202; FED. R. APP. P. 24(a)(5).

December 12, 2017.



A. JOE FISH
Senior United States District Judge