

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

**DARYL FITZGERALD
JOHNSON**

PLAINTIFF

v.

CAUSE NO. 1:21CV256-LG-RHWR

TROY PETERSON, ET AL.

DEFENDANTS

ORDER ADOPTING REPORT AND RECOMMENDATION

BEFORE THE COURT is the [49] Report and Recommendation entered by United States Magistrate Judge Robert H. Walker. Magistrate Judge Walker recommends that the Court grant the Defendants' [4, 6, 8, 13] Motions to Dismiss, and that Plaintiff's federal law claims should be dismissed with prejudice as *Heck*-barred, and a strike be imposed under 28 U.S.C. § 1915(g). At the time Magistrate Judge Walker entered the Report and Recommendation, he also recommended the Court to decline exercising supplemental jurisdiction over Plaintiff's remaining state law claims. Plaintiff has submitted written objections to the Report and Recommendation.

When a party objects to a report and recommendation, the Court is required to conduct a *de novo* review of that portion of the report that draws objection from any party. 28 U.S.C. § 636(b). The Court must independently examine the record and assess the applicable law. The district court may accept, reject, or modify, in whole or in part, the magistrate judge's findings or recommendations. *Garcia v. Boldin*, 691 F.2d 1172, 1179 (5th Cir. 1982). Here, Plaintiff objects to the Report

and Recommendation in its entirety and reemphasizes in further the detail the facts regarding his claims previously made in the underlying Complaint. Having conducted a *de novo* review of the Report and Recommendation, the Court concludes that Magistrate Judge Walker's findings and conclusions are correct. Thus, the Complaint must be dismissed with prejudice until the conditions established in *Heck* have been satisfied. The Court further declines to exercise supplemental jurisdiction over any remaining state law claims raised by Plaintiff.

IT IS THEREFORE ORDERED AND ADJUDGED that the [49] Report and Recommendation entered by United States Magistrate Judge Robert H. Walker, is **ADOPTED** as the opinion of this Court. Plaintiff's claims brought pursuant to 42 U.S.C. § 1983 are **DISMISSED WITH PREJUDICE**.

IT IS FURTHER ORDERED AND ADJUDGED, that all remaining state law claims are **DISMISSED WITHOUT PREJUDICE**.

SO ORDERED AND ADJUDGED this the 7th day of January, 2022.

s/ *Louis Guirola, Jr.*

LOUIS GUIROLA, JR.
UNITED STATES DISTRICT JUDGE