

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

DAVE H. ANTHONY,

Plaintiff,

versus

GAIL A. WOOD, *et al.*,

Defendants.

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CIVIL ACTION NO. 1:05-CV-719

**MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION**

Plaintiff Dave H. Anthony, proceeding *pro se*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983 against several defendants.

The court previously referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge recommending the lawsuit be dismissed as frivolous and for failure to state a claim upon which relief may be granted.

The court has received the Report and Recommendation, along with the record, pleadings, and all available evidence. Plaintiff filed objections to the Report and Recommendation.

The court has conducted a *de novo* review of the objections in relation to the pleadings and applicable law. After careful consideration, the court is of the opinion the objections are without merit. Plaintiff’s pleadings include a claim of deliberate indifference to serious medical needs based on the use of a defective needle and equipment to draw blood from him. In his objections, plaintiff also asserts he failed to receive proper treatment for his back, a claim not previously

raised. However, plaintiff does not allege any of the named defendants had any involvement with the treatment he received for his back. As a result, plaintiff's allegations concerning his back fail to state a claim against any of the defendants named in this lawsuit.

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 dismissing this lawsuit.

SIGNED at Sherman, Texas, this 5th day of March, 2009.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE