

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

BEAUMONT DIVISION

RALPH NOWLIN

§

VS.

§

CIVIL ACTION NO. 1:08cv307

NATHANIEL QUARTERMAN, ET AL.

§

MEMORANDUM ORDER OVERRULING PLAINTIFF'S OBJECTIONS AND
ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff Ralph Nowlin, formerly an inmate in the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, brought the above-styled action.

The court 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 recommends this action be dismissed as frivolous and for failing to state a claim upon which relief may be granted.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, pleadings and all available evidence. Plaintiff filed objections to the magistrate judge's Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

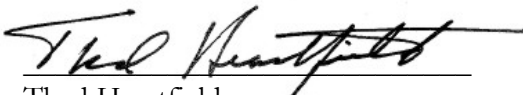
After careful consideration, the court concludes plaintiff's objections are without merit. Plaintiff's claims against the named defendants are barred by limitations. Further, plaintiff has shown no basis of liability on the part of any of the named defendants. The medical providers for prisons within the State of Texas do not work for the Department of Criminal Justice, but rather for

separate entities which contract with TDCJ to provide medical care for prisoners; there is no employer-employee relationship between TDCJ and the persons providing direct patient care services. *See Hazel v. Bell*, 2010 WL 1038743, at *27 (E.D. Tex. Jan. 8, 2010) (unpublished); *Rodriguez v. Texas Department of Criminal Justice*, 2003 WL 22055820, at *8 (S.D. Tex. Aug. 28, 2003) (unpublished); *accord, Norman v. TDCJ-ID*, 293 Fed. Appx. 285, 2008 WL 4238279 (5th Cir. Sept. 17, 2008) (unpublished) (noting that "through a committee created by the state legislature, the TDCJ contracts out its medical services to the University of Texas Medical Branch and the Texas Tech University Health Sciences Center."). As TDCJ-CID employees, none of the defendants are policy-makers with authority over medical decisions. Accordingly, plaintiff's claims are frivolous and fail to state a claim upon which relief may be granted.

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 this case in accordance with the magistrate judge's recommendations.

SIGNED this the 14 day of **October, 2010**.


Thad Heartfield
United States District Judge