

**UNITED STATES DISTRICT COURT**

**EASTERN DISTRICT OF TEXAS**

EMMANUEL RANDLE,

Plaintiff,

*versus*

WARDEN ALFORD,

Defendant.

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CIVIL ACTION NO. 1:09-CV-166

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

Plaintiff Emmanuel Randle, proceeding *pro se*, filed this lawsuit pursuant to 42 U.S.C. § 1983. The court previously referred this matter to the Honorable Earl S. Hines, 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. The magistrate judge recommends granting defendant’s motion to dismiss the claims against him in his official capacity; denying the remainder of defendant’s motion to dismiss for failure to state a claim upon which relief may be granted; and granting defendant’s motion for a Rule 7 reply.

The court has received the Report and Recommendation, along with the record, pleadings, and all available evidence. No objections were filed to the Report and Recommendation.

**ORDER**

Accordingly, the findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. Defendant’s motion to dismiss the

claims against him in his official capacity is **GRANTED**. In all other respects, defendant's motion to dismiss for failure to state a claim is **DENIED**. Defendant's motion for a Rule 7 reply is **GRANTED**. A separate order shall be entered directing plaintiff to file a Rule 7(a) reply.

SIGNED at Beaumont, Texas, this 2nd day of March, 2011.



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MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE