
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

DEXTER LEON CHAPA,

Plaintiff,

*versus*BRAD LIVINGSTON, *et al.*,

Defendants.

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CIVIL ACTION NO. 1:09-CV-398

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

Plaintiff Dexter Leon Chapa, a prisoner previously confined at the Larry Gist State Jail, proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against Brad Livingston and Reginald Goings.

The court ordered that this matter be referred 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 defendants' motion to dismiss the claims against them in their official capacities; denying the remainder of defendants' motion to dismiss for failure to state a claim upon which relief may be granted; and granting defendants' motion for a Rule 7 reply.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties.

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**. Defendants' motion to dismiss the claims against them in their official capacities is **GRANTED**. In all other respects, defendants' motion to dismiss for failure to state a claim is **DENIED**. Defendants' motion for a Rule 7 reply is **GRANTED**.

SIGNED at Beaumont, Texas, this 23rd day of September, 2010.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE