

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

OSCAR JIMENEZ, JR. §  
VS. § CIVIL ACTION NO. 1:09-CV-899  
JODY R. UPTON, ET AL §

MEMORANDUM ORDER ADOPTING THE MAGISTRATE  
JUDGE'S REPORT AND RECOMMENDATION

Plaintiff, Oscar Jimenez, Jr., an inmate confined at the U.S. Penitentiary in Lewisburg, Pennsylvania, proceeding *pro se*, filed this Bivens-type action pursuant to 28 U.S.C. § 1331.

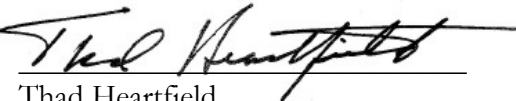
The court referred this matter to the Honorable Earl S. Hines, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The magistrate judge recommends plaintiff's motion to dismiss be granted and the action dismissed pursuant to FED. R. CIV. P. 41(a)(1).

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such order, along with the record, and pleadings. No objections to the Report and Recommendation of United States Magistrate Judge were filed by the parties. After due consideration, the court is of the opinion that plaintiff's motion to dismiss should be granted and the action dismissed pursuant to FED. R. CIV. P. 41(a)(1).

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**. A final judgment will be entered in this case in accordance with the magistrate judge's recommendations.

**SIGNED** this the 27 day of July, 2010.

  
Thad Heartfield  
United States District Judge