Doc. 255

UNITED STATES DISTRICT COURT

JEFFERY T. BINGHAM, Individually and On Behalf of All Others Similarly Situated Plaintiffs, v. JEFFERSON COUNTY, TEXAS, and SHERIFF G. MITCH WOODS

Defendants.

EASTERN DISTRICT OF TEXAS

NO. 1:11-CV-48 (Lead Case) NO. 1:11-CV-75 (Member Case)

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

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On February 1, 2011, Jeffery T. Bingham filed the instant lawsuit (the "Bingham action"), individually, and on behalf of all others similarly situated, against Defendant Jefferson County, Texas ("the County"), pursuant to the Fair Labor Standards Act of 1938 ("FLSA") 29 U.S.C. §§ 201–219. *See* 1:11-CV-48, Doc. No. 1. On February 11, 2011, Plaintiff Marlon Foots filed a separate action ("the Foots action"), individually, and on behalf of all others similarly situated, against the Jefferson County Sheriff's Office, and pursuant to the FLSA. *See* 1:11-CV-75, Doc. No. 1. On June 29, 2011, the Court granted the County's Unopposed Motion to Consolidate, resulting in the consolidation of the Foots action into the Bingham action for all purposes. *See* 1:11-CV-48, Doc. No. 170; 1:11-CV-75, Doc. No. 14.

On October 2, 2012, the Court referred the consolidated case to the Honorable Zack Hawthorn, United States Magistrate Judge, for all pretrial matters pursuant to an Order of Reference. *See* 1:11-CV-48, Doc. No. 230. The Court has received and considered the report (Doc. No. 252) of the magistrate judge, who recommends that the Court dismiss without prejudice Marlon Foots's claims in both cases for failure to prosecute and failure to comply with

a court order. No objections to the report and recommendation have been filed. The Court's independent review confirms that the magistrate judge's analysis is correct.

It is, therefore, **ORDERED** that the report and recommendation of the magistrate judge (Doc. No. 252) is **ADOPTED**. Plaintiff Marlon Foots's claims in cause numbers 1:11-CV-48 and 1:11-CV-75 are dismissed without prejudice. The Clerk of Court is directed to close cause number 1:11-CV-75 and terminate Marlon Foots as a party in cause number 1:11-CV-48.

Signed this date.

Jun 4, 2013

Maria a. Crone.

MARCIA A. CRONE UNITED STATES DISTRICT JUDGE