

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

RAFAEL C. SIMMONS §
VS. § CIVIL ACTION NO. 1:11-CV-690
FEDERAL BUREAU OF PRISONS, ET AL., §

MEMORANDUM ORDER ADOPTING THE
MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Plaintiff, Rafael C. Simmons, an inmate formerly confined at FCI Beaumont, proceeding *pro se* and *in forma pauperis*, filed this civil rights action pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388, 91 S.Ct. 1999, 29 L.Ed.2d 619 (1971), against defendants J. Fox, Warden, Federal Correctional Complex in Beaumont, Texas, L. Phillips, Camp Administrator, Satellite Prison Camp in Beaumont, Texas, J. Gentry, Lieutenant, United States Prison in Beaumont, Texas, R. Swain, Special Investigative Unit, United States Prison in Beaumont, Texas, and E. Dean, Correctional Officer, United States Prison in Beaumont, Texas.

The Court referred this matter to the Honorable Keith Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this Court. The Magistrate Judge recommends plaintiff's civil rights lawsuit be dismissed for failure to exhaust administrative remedies and for failure to state a claim.

The Court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, and pleadings. No objections to the Report and Recommendation have been filed by the parties to date.

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 7 day of **March, 2013**.

A handwritten signature in black ink, appearing to read "Thad Heartfield", written over a horizontal line.

Thad Heartfield
United States District Judge