
UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

CURTIS LEE SHEPPARD,

Plaintiff,

*versus*BRAD LIVINGSTON, *et al.*

Defendants.

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CIVIL ACTION NO. 1:12-CV-169

ORDER

A memorandum order was previously entered granting a motion to dismiss filed by the defendants. The motion asserted that plaintiff's claim under the First Amendment should be dismissed pursuant to Federal Rule of Civil Procedure 12(b)(6). In granting the motion, the court relied on a Report and Recommendation of United States Magistrate Judge that was adopted by the court. When the memorandum order was signed, no objections to the Report and Recommendation had been docketed. However, on the same day the memorandum order was signed, objections to the Report and Recommendation filed by the plaintiff were entered on the docket.

The court has made a *de novo* review of the objections in relation to the pleadings and the applicable law. After careful consideration, the court is of the opinion the objections are without merit. As the magistrate judge stated, the decision in *Hicks v. Garner*, 69 F.3d 22 (5th Cir. 1995), establishes that to the extent plaintiff is proceeding under the First Amendment, he has failed to state a claim upon which relief may be granted. As a result, plaintiff's objections to the Report and Recommendation are **OVERRULED**. The dismissal of plaintiff's claim under the

First Amendment has no effect on his claim under the Religious Land Use and Institutionalized Persons Act of 2000.

Signed this date.

Mar 26, 2015

Handwritten signature of Marcia A. Crone in cursive script.

MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE