UNITED STATES DISTRICT COURT

Defendant.

EASTERN DISTRICT OF TEXAS

| CURTIS LEE SHEPPARD, |
|----------------------|
| Plaintiff, |
| versus |
| BRAD LIVINGSTON, |

CIVIL ACTION NO. 1:12-CV-169

MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

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Plaintiff Curtis Lee Sheppard, an inmate confined within the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding pro se, filed the above-styled lawsuit against Brad Livingston. The court previously referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court.

Plaintiff has filed a motion seeking a default judgment (#213). The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge concerning the motion. The magistrate judge recommends the motion be denied.

The court has received the Report and Recommendation, along with the record, pleadings, and all available evidence. Plaintiff filed objections to the magistrate judge's Report and Recommendation.

The court has conducted 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 plaintiff's objections are without merit. As explained by the magistrate judge, the defendant timely responded to the court order cited by plaintiff. The defendant was therefore not in default.

ORDER

Accordingly, the objections filed by plaintiff are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct, and the report of the magistrate judge is **ADOPTED**. Plaintiff's motion seeking a default judgment is **DENIED**.

So ORDERED and SIGNED this 23 day of March, 2018.

Rom Clark

Ron Clark, United States District Judge