
UNITED STATES DISTRICT COURT**EASTERN DISTRICT OF TEXAS**

WILLIAM EARL DURHAM,

Plaintiff,

*versus*JANE DOE, *et al.*,

Defendants.

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CIVIL ACTION NO. 1:13-CV-369

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

Plaintiff William Earl Durham, an inmate confined at the Stevenson Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. 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 preliminary injunction and temporary restraining order. 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 must therefore conduct a *de novo* review of the objections in relation to the pleadings and the applicable law.

Plaintiff seeks an order directing the defendants to provide him with certain documents and information. He also asks the court to direct the defendants not to alter, destroy or remove certain documents. The magistrate judge recommended the motion be denied because plaintiff had not demonstrated he faced a substantial risk of serious harm if relief was not granted. With respect to the request that the defendants be directed not to alter, destroy or remove certain documents, the magistrate judge noted plaintiff had stated no facts indicating the defendants intended to take

such action. In his objections, plaintiff states that during his criminal trial, the custodian of records stated that 20 pages were missing from a report. He states the report had been referenced by one of the defendants in 2011. However, while he states that a defendant referenced the report three years ago, plaintiff has not demonstrated the defendant removed pages from the report or that any of the defendants have threatened to destroy or remove documents. As a result, the magistrate judge correctly concluded plaintiff has not demonstrated he faces a substantial risk of serious harm if relief is not granted.

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 for a preliminary injunction and temporary restraining order is **DENIED**.

SIGNED at Beaumont, Texas, this 6th day of August, 2014.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE