

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

COLTON BARRETT §
VS. § CIVIL ACTION NO. 1:14cv189
JESSE W. LOGAN, ET AL. §

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

Colton Barrett, proceeding *pro se*, filed the above-styled 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 28 U.S.C. § 636 and applicable orders of this Court. The Magistrate Judge has submitted a Report and Recommendation of United States Magistrate Judge concerning this matter. The Magistrate Judge recommends the lawsuit be dismissed for failure to state a claim upon which relief may be granted.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and pleadings. Plaintiff filed objections to the Report and Recommendation. The court must therefore conduct a *de novo* review of the objections.

Plaintiff primarily alleges the defendants improperly deprived him of property while searching his cell. The Magistrate Judge concluded plaintiff failed to state a claim because his allegations did not show the property was destroyed in accordance with established state procedures and Texas state law provides an adequate post-deprivation remedy.

In his objections, plaintiff acknowledges that while his cell was searched in accordance with established procedures, the defendants who conducted the search went further than permitted by regulations when they destroyed his property. As a result, the Magistrate Judge correctly concluded plaintiff failed to state a claim upon which relief could be granted. *Hudson v. Palmer*, 468 U.S. 517, 533 (1984); *Murphy v. Collins*, 26 F.3d 541, 543-44 (5th Cir. 1994).¹

¹ In his objections, plaintiff stated he also wished to assert claims based on denial of equal protection of the law and denial of the right to practice his religion. Those claims have been severed into a new lawsuit.

ORDER

Accordingly, plaintiff's objections 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** as the opinion of the court. A final judgment shall be entered in accordance with the recommendation of the Magistrate Judge.

So **ORDERED** and **SIGNED** this **22** day of **September, 2017**.



Ron Clark, United States District Judge