

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

RONALD E. NEWTON §
VS. § CIVIL ACTION NO. 1:15cv409
JAIME APPERSON, ET AL. §

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

Plaintiff Ronald E. Newton, proceeding *pro se*, filed the above-styled lawsuit. The Court previously referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, for consideration pursuant to applicable orders of this court. The Magistrate Judge has submitted a Report and Recommendation of United States Magistrate Judge recommending this case be dismissed without prejudice pursuant to 28 U.S.C. § 1915(g).

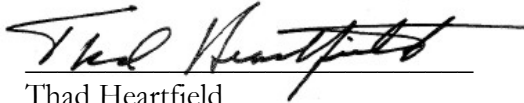
The Court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record. Plaintiff filed objections to the Report and Recommendation.

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 the objections are without merit. The Magistrate Judge's recommendation was based on his conclusion that plaintiff had previously had three lawsuits dismissed for reasons that constitute a strike pursuant to Section 1915(g). In his objections, plaintiff states that one of his prior cases, *Newton v. Watkins*, No. 3:12cv3397 (N.D. Tex. Dec. 3, 2012), should not count as a strike because that case challenged his custody and was therefore a petition for writ of habeas corpus. However, *Newton v. Watkins* was filed on a form used to file civil rights lawsuits. Moreover, the district court treated that lawsuit as a civil rights action. As a result, the Magistrate Judge correctly concluded *Newton v. Watkins* counts as a strike under Section 1915(g).

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**. A final judgment shall be entered dismissing this lawsuit.

SIGNED this the 7 day of **March, 2019**.

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

Thad Heartfield
United States District Judge