
UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

RAMIRO CANALES,

Plaintiff,

*versus*VIVIAN L. DAVIS, *et al.*,

Defendants.

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CIVIL ACTION NO. 1:16-CV-140

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

Plaintiff, Ramiro Canales, an inmate confined at the Mark Stiles Unit, with the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se* and *in forma pauperis*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against several defendants.

The court referred this matter to the Honorable Keith Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of this court. The Magistrate Judge recommends plaintiff's claims against defendant Sergeant FNU Moore be dismissed pursuant to Federal Rule of Civil Procedure 41(a)(2) without prejudice.

The court has received and considered the Report and Recommendation of United States Magistrate Judge filed pursuant to such referral, along with the record, and pleadings. Plaintiff filed correspondence with the court on September 9, 2019. The court liberally construes the response as objections to the Report and Recommendation. This requires a *de novo* review of the objections in relation to the pleadings and the applicable law. *See* FED. R. CIV. P. 72(b).

On June 10, 2019, the Magistrate Judge ordered plaintiff to notify the court as to whether he wished to voluntarily dismiss his claims against defendant Moore or wished to proceed with

his claims against this defendant. If plaintiff wished to proceed with his claims, the Order gave plaintiff twenty days to provide a current address and full name for defendant Moore. Plaintiff received a copy of the Report and Recommendation on August 21, 2019 (docket entry no. 84). On September 9, 2019, plaintiff filed a proposed summons but the summons did not contain an address to serve defendant Moore nor did it provide defendant Moore's first name to assist in identification.

After careful consideration, the court finds plaintiff's objections are without merit. Plaintiff has had ample time to provide a full name for defendant Moore and an address for service of process. Plaintiff has failed to do so and plaintiff's claims against defendant Moore should be dismissed for want of prosecution pursuant to Federal Rule of Civil Procedure 41(b).

ORDER

Accordingly, the objections of the 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 **PARTIALLY ADOPTED** to the extent it recommends dismissal. The dismissal is without prejudice.

SIGNED at Beaumont, Texas, this 23rd day of January, 2020.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE