

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

ERNEST MARQUEZ §
VS. § CIVIL ACTION NO. 1:16cv286
BRAD LIVINGSTON, ET AL. §

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

Ernest Marquez, proceeding *pro se*, filed the above-styled civil rights lawsuit. The court previously referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable orders of this court.

Defendants Livingston, Carter and Allen have filed a partial motion to dismiss (doc. no. 26). The Magistrate Judge has submitted a Report and Recommendation of United States Magistrate Judge recommending the motion 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 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 that objections are without merit. The Magistrate Judge correctly concluded the Eleventh Amendment to the Constitution makes defendants Livingston, Carter and Allen immune to claims for money damages asserted against them in their official capacities. Further, plaintiff's allegations fail to demonstrate defendant Livingston had sufficient personal involvement to support a claim against him in his individual capacity.

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**. The

partial motion to dismiss is **GRANTED**. The claims against defendants Livingston, Carter and Allen in their official capacities, as well as the claims against defendant Livingston in his individual capacity, are **DISMISSED**.

So **ORDERED** and **SIGNED** this **26** day of **September, 2017**.

A handwritten signature in black ink, appearing to read "Ron Clark", written in a cursive style.

Ron Clark, United States District Judge