

**UNITED STATES DISTRICT COURT**

**EASTERN DISTRICT OF TEXAS**

ERIC-CANTRELL HOLMES,

Plaintiff,

*versus*

LORIE DAVIS, *et al.*,

Defendants.

§  
§  
§  
§  
§  
§  
§  
§

CIVIL ACTION NO. 1:17-CV-133

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

Plaintiff, Eric-Cantrell Holmes, a prisoner formerly confined at the Mark Stiles Unit with the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983 against seventeen defendants.

The court 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. The Magistrate Judge recommends denying plaintiff’s motion to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(g).

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 objections to the Magistrate Judge’s 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).

After careful consideration, the court finds plaintiff's objections are without merit. Plaintiff states he has met the imminent danger exception. Plaintiff's complaint surrounds events that occurred at the Mark Stiles Unit. At the time he filed his complaint, however, plaintiff was no longer incarcerated at the Mark Stiles Unit. Since the inception of this civil action, plaintiff has been incarcerated at the Michael Unit. Plaintiff was not under threat of imminent danger at the time he filed this complaint.

### 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 **ADOPTED**.

Plaintiff's motion for leave to proceed *in forma pauperis* (docket entry no. 3) is **DENIED**.

Plaintiff's Motion for Temporary Restraining Order and/or Preliminary Injunction (docket entry no. 11) is also **DENIED**, subject to reconsideration.

Plaintiff has thirty (30) days from entry below to pay the full filing fee of \$400.00. Failure to do so will result in dismissal of this case for want of prosecution pursuant to Federal Rule of Civil Procedure 41(b).

SIGNED at Beaumont, Texas, this 8th day of January, 2018.



---

MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE