

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

PAT LANE SWANZY, JR., #1812125 §
VS. § CIVIL ACTION NO. 2:13cv112
G.F. (CORKY) STOVALL, ET AL. §

ORDER OF DISMISSAL

Plaintiff Pat Lane Swanzy, Jr., confined in the Gurney Unit of the Texas prison system, proceeding *pro se* and seeking to proceed *in forma pauperis*, filed the above-styled and numbered civil rights lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge Roy S. Payne, who issued a Report and Recommendation (“R&R”) recommending that the complaint be dismissed with prejudice as frivolous for failure to state a claim upon which relief may be granted pursuant to 28 U.S.C. § 1915A(b)(1).

Plaintiff filed objections (docket entry #11). In his objections, he does not address the basis of the Magistrate Judge’s R&R, but attempts to amend the allegations of his original complaint with additional detail that he believes would state a claim under § 1983. He is incorrect. Regardless of the additional detail, which is immaterial, the proper form for his claim is in a petition for writ of habeas corpus. Furthermore, even with the additional facts he has added, the Defendants he has named remain immune from suit under § 1983 for the reasons stated in the R&R. Therefore, his objections will be overruled.

Having made a *de novo* review of the objections raised by Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and that the

objections of Plaintiff are without merit. Therefore, the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that Plaintiff's objections are **OVERRULED**. It is further

ORDERED that Plaintiff's complaint is **DISMISSED WITH PREJUDICE** as frivolous for failure to state a claim upon which relief may be granted, pursuant to 28 U.S.C. § 1915A(b)(1).

It is finally

ORDERED that all motions by either party not previously ruled on are hereby **DENIED**.

The Clerk shall send a copy of this Order of Dismissal to the Three Strikes Administrator for the Eastern District of Texas.

So Ordered and Signed on this

Mar 31, 2013



RODNEY GILSTRAP
UNITED STATES DISTRICT JUDGE