

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

KURBY DECKER §
v. § CIVIL ACTION NO. 5:06cv210
CHEQUITA DUNBAR, ET AL. §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Kurby Decker, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Decker raised numerous complaints, including allegations of retaliation, denial of access to the law library and legal materials, and cruel and unusual punishment. The Magistrate Judge ordered him to file an amended complaint setting out his claims with more factual specificity, and Decker complied with this order. The Magistrate Judge also ordered the Defendants to answer Decker's lawsuit.

On October 1, 2007, the Defendants filed a motion for summary judgment, along with summary judgment evidence. Decker filed a response to this motion, along with summary judgment evidence of his own; he also requested that his pleadings be considered as summary judgment evidence.

After carefully reviewing all of the pleadings and the summary judgment evidence of the parties, the Magistrate Judge issued a Report on August 22, 2008, recommending that the Defendants' motion for summary judgment be granted and that the lawsuit be dismissed. Decker

sought and received an extension of time in which to object, but no objections have been filed; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has carefully reviewed the pleadings and documents in this case, as well as the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 168) is hereby ADOPTED as the opinion of the District Court. It is further

ORDERED that the Defendants' motion for summary judgment (docket no. 98) is GRANTED and that the above-styled civil action be and hereby is DISMISSED with prejudice. It is further

ORDERED that any and all other motions which may be pending in this action are hereby DENIED.

SIGNED this 29th day of September, 2008.



DAVID FOLSOM
UNITED STATES DISTRICT JUDGE