

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

JAICOURRIE FINLEY #1354674 §
v. § CIVIL ACTION NO. 5:09cv146
WARDEN DAVID HUDSON, ET AL. §

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

The Plaintiff Jaicourrie Finley, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged deprivations of his constitutional rights. This Court ordered that the matter 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.

Finley complained that he was repeatedly sexually assaulted by dozens of TDCJ officials over an extended period of time. The Defendants were served with process and a motion to dismiss the lawsuit as factually frivolous has been filed. This answer noted that Finley has filed over 120 grievances alleging sexual assault, and no basis has been found to support any of the allegations. The grievances include allegations that Finley has been sexually assaulted by the Director of TDCJ, the President of Afghanistan, United States District Judge William Sessions, and U.S. Senator John Cornyn. In addition, the Defendants note that Finley has filed over 40 civil actions in various federal courts around the country, including in the District of Hawaii and the District of New York, also alleging innumerable sexual assaults by various persons.

Finley did not file a response to the motion to dismiss, but instead had other inmates write to the Court claiming that excessive force had been used on Finley at the Clements Unit, involving

having chemical agents sprayed in his face, and that he is now blind in one eye and partially blind in the other. Although he said that this made him unable to do legal work, court records show that he has filed at least one new lawsuit, and multiple pleadings in other lawsuit, since the alleged spraying of the chemical agents took place.

After review of the pleadings, the Magistrate Judge issued a Report recommending that the motion to dismiss be granted and that the lawsuit be dismissed with prejudice as frivolous. The Magistrate Judge referred to Finley's pleadings as "irredeemably frivolous" and stated that his claims rose to the level of the irrational or wholly incredible. The Magistrate Judge also briefly addressed Finley's claims that his grievances were not properly addressed and that certain officers have at times refused to feed him; the Magistrate Judge noted that these claims were inextricably tied in with the sexual assault claims, and that they lacked merit on their face as well.

Finley received a copy of the Magistrate Judge's Report on January 26, 2011, and filed a motion for extension of time in which to file objections. This motion was granted and the objection time extended to March 10, 2011. Nonetheless, Finley has failed to file any objections to the Report of the Magistrate Judge, despite having more than ample time in which to do so, and as a result, 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 proposed 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 reviewed the pleadings in this cause and 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. 110) is hereby ADOPTED as the opinion of the District Court. It is further

ORDERED that the Defendants' motion to dismiss (docket no. 109) is GRANTED and that the above-styled civil action is hereby DISMISSED with prejudice as frivolous. It is further

ORDERED that any and all motions which may be pending in this civil action are hereby DENIED. Finally, it is

ORDERED that the Clerk shall send a copy of this Memorandum Opinion to the Administrator of the Three Strikes List for the Eastern District of Texas.

SIGNED this 15th day of March, 2011.

A handwritten signature in black ink, appearing to read "David Folsom", written over a horizontal line.

DAVID FOLSOM
UNITED STATES DISTRICT JUDGE