

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

ROBERT LESLIE CALDWELL §
v. § CIVIL ACTION NO. 5:12cv24
RICK THALER, ET AL. §

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

The Plaintiff Robert Caldwell, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights in the Texas Department of Criminal Justice, Correctional Institutions Division. 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.

As Defendants in his lawsuit, Caldwell named TDCJ-CID Director Rick Thaler, Warden Dawn Grounds, Major Rodger McDonald, Captain William Gaddis, Captain Dennis Martin, Lt. Sidney Arnold, and counsel substitute Deborah Abernathy.¹ Of these defendants, Thaler, Grounds, and Abernathy have previously been dismissed.

Caldwell raises claims concerning a disciplinary case which he received on December 28, 2010, as well as complaints concerning the conditions of confinement on 11 Building, where he was placed in lockup after receiving the disciplinary case. The Defendants filed a motion for summary

¹Caldwell identified Abernathy as “Abernator,” and her name appears this way on the docket sheet.

judgment, along with competent summary judgment evidence, and Caldwell did not file a response to this motion.

After review of the pleadings and the summary judgment evidence, the Magistrate Judge issued a Report recommending the motion for summary judgment be granted and the lawsuit be dismissed. Caldwell received a copy of this Report but filed no objections thereto; 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 reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law."). It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. [34](#)) is hereby **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the Defendants' motion for summary judgment (docket no. 30) be and hereby is **GRANTED** and that the above-styled civil action is hereby **DISMISSED WITH PREJUDICE**. It is further

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

It is SO ORDERED.

SIGNED this 26th day of November, 2013.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE