

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

SEAN LYNN §
v. § CIVIL ACTION NO. 5:12cv114
STAFF AT THE TELFORD UNIT, ET AL. §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
ON PLAINTIFF'S APPLICATION FOR LEAVE TO PROCEED IN FORMA PAUPERIS

The Plaintiff Sean Lynn filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged deprivations of his constitutional rights. Lynn sought *in forma pauperis* status in his lawsuit. 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.

The Magistrate Judge reviewed Lynn's application for leave to proceed *in forma pauperis* and determined that Lynn had a six-month average balance of \$2,046.57 in his inmate trust account, and a current balance of \$3,246.14. The Magistrate Judge concluded that Lynn had ample resources with which to pay a filing fee of \$350.00, and recommended that the application for leave to proceed *in forma pauperis* be denied.

Lynn received a copy of this Report on December 4, 2012, but has 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 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*). Lynn has requested an extension of time in which to pay the filing fee, which request is meritorious.

The Court has reviewed the pleadings and records in this cause as well as the Report of the Magistrate Judge. Upon such review, the Court has determined that 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. 11) is ADOPTED as the opinion of the District Court. It is further

ORDERED that the Plaintiff's application for leave to proceed *in forma pauperis* (docket no. 8) is hereby DENIED. The Plaintiff's motion for extension of time in which to pay the filing fee and to file an amended complaint (docket no. 15) is GRANTED. The Plaintiff shall have until March 4, 2013, in which to pay the filing fee of \$350.00 and to file an amended complaint setting forth a short and plain statement of his claims, as set out in the Magistrate Judge's order dated November 26, 2012. Failure to comply with these orders could result in dismissal of the case for failure to prosecute or to obey an order of the Court.

It is SO ORDERED.

SIGNED this 24th day of January, 2013.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE