

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

EDUARDO SANCHEZ, #873766

§

VS.

§

CIVIL ACTION NO. 5:13cv25

SHAYLON ALLEN, ET AL.

§

ORDER OF DISMISSAL

Plaintiff Eduardo Sanchez, an inmate confined at the Telford Unit of the Texas prison system, proceeding *pro se*, filed the above-styled and numbered civil lawsuit. The complaint was referred to United States Magistrate Judge Caroline M. Craven, who issued a Report and Recommendation finding that the Defendants' motion for summary judgment should be granted. The Plaintiff has filed objections.

The Plaintiff's objections initially focused on his retaliation claim. He argued that Defendant Hilborn retaliated against him in response to a sarcastic comment by him. It should be noted, however, that the definition of a retaliation claim is limited. The Plaintiff must show that he engaged in a (1) specific constitutional right, (2) the defendant's intent to retaliate against the prisoner for his or her exercise of that right, (3) a retaliatory adverse act, and (4) causation. *McDonald v. Stewart*, 132 F.3d 225, 231 (5th Cir. 1998). Inmates retain some of their rights under the First Amendment. They have a right to raise complaints, but such complaints must be raised in proper channels. *Morris v. Powell*, 449 F.3d 682, 684 (5th Cir. 2006). The Plaintiff's use of sarcasm was not a complaint that was presented through proper channels. His use of sarcasm was not a constitutionally protected right. As such, the facts as presented by the Plaintiff did not give rise to a potentially meritorious civil rights lawsuit. The Plaintiff also complained about the disciplinary case that was filed against him, but the punishment that was imposed against him did not involve a constitutionally protected liberty interest.

The Report of the Magistrate Judge, which contains her proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration, and having made a *de novo* review of the objections raised by the Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections raised by the 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 the Report and Recommendation (docket entry #30) is **ADOPTED**. It is further

ORDERED that the Defendants' motion for summary judgment (docket entry #17) is **GRANTED**. It is further

ORDERED that the complaint is **DISMISSED** with prejudice. It is further

ORDERED that all motions not previously ruled on are **DENIED**.

It is **SO ORDERED**.

SIGNED this 29th day of October, 2013.

A handwritten signature in black ink, reading "Michael H. Schneider". The signature is written in a cursive style with a horizontal line underneath it.

MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE