

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

REGINALD CARL MUCKLEROY §
v. § CIVIL ACTION NO. 5:13cv108
WILLIAM STEPHENS, ET AL. §

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

The Plaintiff Reginald Muckleroy, 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.

On October 17, 2013, Muckleroy was ordered to pay an initial partial filing fee of \$12.28 or to show good cause for the failure to do so. Muckleroy received a copy of this order on October 22, 2013, and filed a motion for extension of time to comply. This motion was granted until December 23, 2013.

When Muckleroy did not comply, the Magistrate Judge issued a Report on January 13, 2014, recommending that the lawsuit be dismissed without prejudice for failure to prosecute or to obey an order of the Court. This Report was returned as undeliverable because Muckleroy had been released from jail. On October 21, 2013, Muckleroy filed a second motion for extension of time, asking in the alternative that if his motion is not granted, that the case be dismissed with the ability to refile at a later date.

The envelope in which Muckleroy's motion was received bore a return address of [2318 Kengley Street, Texarkana TX 75501](#). The Magistrate Judge's Report was re-sent to this address,

but it was returned as undeliverable because no such street existed. The Clerk's Office contacted the United States Postal Service and determined that the only street in Texarkana beginning with a "K" with house numbers in the 2000's was Kennedy Lane, which is in the 75503 zip code and not 75501; additionally, the Plaintiff's return address clearly does not say "Kennedy Lane." Because Muckleroy has failed to notify the Court of his mailing address or current whereabouts, he has failed to prosecute his case, and the Magistrate Judge's Report recommending dismissal on this basis is correct. As Muckleroy requested, the lawsuit will be dismissed without prejudice to allow him to re-file it, should he choose to do so, within the two-year limitations period. It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. [9](#)) is hereby **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute. Finally, it is

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

It is SO ORDERED.

SIGNED this 11th day of February, 2014.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE