

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

EDUARDO SANCHEZ §
v. § CIVIL ACTION NO. 5:14cv64
WARDEN DAWN GROUNDS, ET AL. §

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

The Plaintiff Eduardo Sanchez, 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, Sanchez named Warden Dawn Grounds (now known as Dawn Merchant), Warden Jeffrey Calfee, Major Wade Alexander, Lt. Charles Howard, Sgt. Corvette Phillips, Captain Frederick Gooden, Officers April Foster, Bennie Ware, Shaylon Allen, counsel substitutes Amanda Jordan and Sheila Forte, and the Telford Unit Grievance Department.

The Defendants Merchant, Calfee, Howard, Phillips, Forte, Ware, Allen, and the Unit Grievance Department filed a motion to dismiss for failure to state a claim and a motion for summary judgment based on failure to exhaust administrative remedies. Sanchez filed responses to these motions.

After review of the pleadings, the Magistrate Judge issued a Report on February 5, 2015, recommending the Defendants' motion to dismiss for failure to state a claim be granted as to four of the Plaintiff's claims, and that in the alternative, these four claims be dismissed as frivolous. The

Magistrate Judge further recommended the Defendants' motion for summary judgment based on failure to exhaust administrative remedies be granted as to all remaining claims in the lawsuit.

Sanchez received a copy of the Report on February 10, 2015, and filed a motion for extension of time in which to file objections, which was granted until March 24, 2015. Although the parties have had ample time to object to the Magistrate Judge's Report, no objections have been received; accordingly, the parties are 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

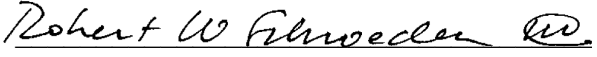
ORDERED that the Report of the Magistrate Judge (docket no. 16) is hereby ADOPTED as the opinion of the District Court. It is further

ORDERED that the Defendants' motion to dismiss for failure to state a claim (docket no. 7) is hereby GRANTED as to the Plaintiff's claims that: (1) his counsel substitutes did not assist him; (2) he was not allowed to review the disciplinary audio tape; (3) he was not allowed to question witnesses or to leave his cell; and (4) he did not receive answers on all of his I-60's. These four claims are DISMISSED as frivolous and for failure to state a claim upon which relief may be granted. It is further

ORDERED that the Defendants' motion for summary judgment based on failure to exhaust administrative remedies (docket no. 13) is GRANTED as to all other claims in the lawsuit and the above-styled civil action is DISMISSED with prejudice. Finally, it is

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

SIGNED this 30th day of March, 2015.


ROBERT W. SCHROEDER III
UNITED STATES DISTRICT JUDGE