

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

JERRY A. ALLEN	§	
v.	§	CIVIL ACTION NO. 6:08cv482
KEVIN R. WHEAT, ET AL.	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATIONS
OF THE UNITED STATES MAGISTRATE JUDGE
ON PLAINTIFF'S MOTION FOR INJUNCTIVE RELIEF

The Plaintiff Jerry Allen filed this civil rights lawsuit complaining of alleged deprivations 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.

Allen has filed a motion seeking injunctive relief, specifically asking that he be placed on safekeeping status. After a review of the pleadings, the Magistrate Judge issued a Report on July 21, 2009, recommending that the motion for injunctive relief be denied. The Magistrate Judge observed that Allen had not shown a substantial likelihood of success on the merits, nor a substantial threat of irreparable injury if the requested injunctive relief is not granted. Instead, the Magistrate Judge said, Allen offered only inchoate feelings that he may be in danger, and his exhibits consisted of documents which were two or more years old and which showed that Allen has been diagnosed with a history of mental illness, including paranoia and psychosis. In addition, the Magistrate Judge concluded that none of the persons against whom the injunction is sought are parties to the case or are in privity with parties to the case, and that Allen failed to show that the requested injunctive relief would not disserve the public interest.

Allen filed objections to the Report on August 31, 2009, arguing that he is in constant danger, he cannot safely be housed on any unit in the Texas prison system, and that “irreparable harm

and injury has transpired and continues to proceed in a stressful manner.” He says that without a court order, he will continue to be assaulted, threatened, coerced, extorted, or forced to do what gang members want, even though he now has a U.S. Senator monitoring him. Allen does not address the Magistrate Judge’s conclusion that he failed to show a substantial likelihood of success on the merits of his claims or that the persons against whom the injunction is sought are not parties to the case or in privity with the parties in the case. His objections are without merit.

The Court has conducted a careful *de novo* review of the pleadings in this cause, including the Plaintiff’s motion for injunctive relief and exhibits, the Report of the Magistrate Judge, and the Plaintiff’s objections thereto. Upon such *de novo* review, the Court has concluded that the Report of the Magistrate Judge is correct and that the Plaintiff’s objections are without merit. It is accordingly

ORDERED that the Plaintiff’s objections are overruled and that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the Plaintiff’s motion for injunctive relief (docket no. 11) is hereby DENIED. It is further

ORDERED that the Plaintiff’s motion for a hearing on his request for injunctive relief (docket no. 20) is DENIED as moot.

So ORDERED and SIGNED this 23rd day of September, 2009.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE