

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

JACKIE BOYD §
v. § CIVIL ACTION NO. 6:09cv492
LEO SINGER §

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

The Plaintiff Jackie Boyd, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged deprivations of his constitutional rights. 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.

Boyd complained of a use of force incident which took place on April 29, 2005. The *in forma pauperis* data sheet attached to his lawsuit was dated October 21, 2009, and so his lawsuit could not have been mailed before that date.

After review of the pleadings, the Magistrate Judge entered a Report recommending that the lawsuit be dismissed with prejudice based upon the expiration of the statute of limitations. Boyd received a copy of this Report on December 29, 2009, but filed no objections thereto; accordingly, he is barred from *de novo* review by the district court 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*).

The Court has reviewed the pleadings in this cause as well as the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED with prejudice as frivolous and for failure to state a claim upon which relief may be granted. It is further

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

SIGNED this 22nd day of March, 2010.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE