

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

TYLER DIVISION

DEDRICK JENKINS, #1307915

§

VS.

§

CIVIL ACTION NO. 6:09cv560

BRAD LIVINGSTON, ET AL.

§

ORDER OF DISMISSAL

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge John D. Love. The Report of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of such action, has been presented for consideration. Plaintiff has filed objections.

Having made a *de novo* review of the objections raised by Plaintiff to the Report, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and Plaintiff's objections are without merit. Specifically, Plaintiff generally re-urges his ongoing arguments as to the merits of his environmental conditions case without raising anything to overcome the findings of the Report of the Magistrate Judge. He cites a few cases, some of which were also cited in the Report, but none substantiate his objections. Most particularly, he has no answer for the finding that his complaint exceeds the statute of limitations for cases filed pursuant to 42 U.S.C. § 1983 except to say that he filed his grievances since 2006 and that "he done all that he could have possibly done when he kept submitting complaints," but had "no power over prison officials in making them answer the complaint." Objections at 3. Of course, the point is that he could have used the power

of § 1983 to bring his claims in a timely manner when he first discovered them in 2006. The Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and adopts same as the findings and conclusions of the Court. It is therefore

ORDERED that the complaint is **DISMISSED** with **PREJUDICE** as frivolous pursuant to 28 U.S.C. § 1915A(b)(1) and as exceeding the statute of limitations for civil rights cases pursuant to 42 U.S.C. § 1983. All motions by either party not previously ruled on are hereby **DENIED**.

So ORDERED and SIGNED this 28th day of September, 2010.

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

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE