

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

JAMES WASHINGTON #366894 §
v. § CIVIL ACTION NO. 6:10cv114
WARDEN WEBB, ET AL. §

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

The Plaintiff James Washington, an inmate of the Texas Department of Criminal Justice, Correctional Institutions Division 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 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.

After review of the pleadings, the Magistrate Judge issued a Report on May 24, 2010, recommending that the lawsuit be dismissed. The Magistrate Judge observed that the Western District of Texas had previously sanctioned Washington by barring him from filing any new lawsuits without first obtaining written permission from a judge, and that this bar is applicable in the Eastern District of Texas because this Court honors sanctions from other districts. However, Washington did not obtain permission before filing the present lawsuit.

In addition, the Magistrate Judge said, Washington has had at least three prior lawsuits or appeals dismissed as frivolous or for failure to state a claim upon which relief may be granted, and so he is subject to the three-strikes bar of 28 U.S.C. §1915(g). Because Washington did not pay the full filing fee or show that he is in imminent danger of serious bodily injury, the Magistrate Judge

recommended that his *in forma pauperis* status be revoked and that his lawsuit be dismissed on this basis as well.

In response, Washington filed a motion which he styled as a “motion of vacate judgment,” which the Court will construe as objections to the Magistrate Judge’s Report. In this motion, he complains about the Magistrate Judge’s handling of prior lawsuits which he filed and says that he wanted the present case referred to the Honorable John D. Love, another Magistrate Judge in the Eastern District of Texas. He says that he is asking for a discharge so that he can get as far away as he can from the State of Texas and no one will have to worry about his coming back. Washington does not address the fact that he has three strikes other than to imply that his previous cases were meritorious. His objections are without merit.

The Court has conducted a careful *de novo* review of the pleadings in this case, the Report of the Magistrate Judge, the Plaintiff’s objections thereto, and all other pleadings, documents, and records in the case. 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

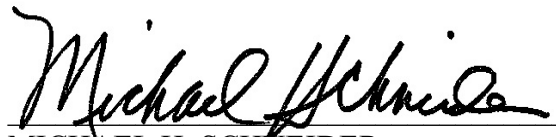
ORDERED that the Plaintiff’s objections are overruled and the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED with prejudice as to the refiling of another *in forma pauperis* lawsuit raising the same claims as herein presented, but without prejudice to the refiling of this lawsuit without seeking *in forma pauperis* status and upon payment of the full \$350.00 filing fee. Should the Plaintiff pay the full filing fee within 15 days after the date of entry of final judgment in this case, he shall be allowed to proceed as though the full filing fee had been paid from the outset. It is further

ORDERED that the Plaintiff’s *in forma pauperis* status is hereby REVOKED. Finally, it is hereby

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

SIGNED this 9th day of June, 2010.

A handwritten signature in black ink, reading "Michael H. Schneider". The signature is written in a cursive style with a large initial "M".

MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE