

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

GREGORY DEWAYNE WARD §
v. § CIVIL ACTION NO. 6:11cv288
WARDEN PRISCILLA DALY, ET AL. §

MEMORANDUM ADOPTING INITIAL REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE

The Plaintiff Gregory Ward, an inmate of the Texas Department of Criminal Justice, Correctional Institutions Division proceeding *pro se*, filed this lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. The lawsuit was referred to the undersigned 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, Ward named Warden Priscilla Daly of the Hodge Unit, correctional officers Darren Loston and Wanda Martin, grievance investigator Sharon Littlefield, and nurses named Henderson, Lennison, Weatherford, Sowell, Stewart, McCallum, Cummings, and Cox.

After an evidentiary hearing, the Magistrate Judge issued an Initial Report recommending that all of the defendants except for Warden Daly and Officer Martin be dismissed. A copy of this Report was sent to Ward at his last known address, return receipt requested, but no objections have been received; accordingly, Ward is 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 Plaintiff's pleadings and testimony and the Initial Report of the Magistrate Judge. Upon such review, the Court has determined that the Initial Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Initial Report of the Magistrate Judge (docket no. 25) is ADOPTED as the opinion of the District Court. It is further

ORDERED that the Plaintiff's claims against the Defendants Officer Lofton, Officer Littlefield, and nurses Henderson, Lennison, Weatherford, Sowell, Stewart, McCallum, Cummings, and Cox are hereby DISMISSED with prejudice as frivolous and for failure to state a claim upon which relief may be granted. The dismissal of these claims and parties shall not count as a strike unless otherwise ordered by the Court, and shall have no effect upon the Plaintiff's claims against Warden Daly and Officer Martin.

It is SO ORDERED.

SIGNED this 9th day of October, 2012.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE