

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

MARVIN CARL ROGERS #1214816           §  
v.   §       CIVIL ACTION NO. 6:11cv366  
WARDEN RUPERT, ET AL.               §

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

The Plaintiff Marvin Rogers, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights in the Texas Department of Criminal Justice, Correctional Institutions Division. 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.

Rogers complained about the loss of some personal property after he was sent to another unit for medical purposes. He indicated that the lost property included a clock radio, toothpaste, a toothbrush, a hot pot, a night lamp, deodorant, gym shorts, shower slides, his family pictures, a plastic spoon, a soap dish, and his letters.

After review of the pleadings, the Magistrate Judge issued a Report recommending that the case be dismissed, albeit without prejudice as to any claims which Rogers could assert in the courts of the State of Texas or through the administrative procedures of TDCJ. *See Hudson v. Palmer*, 468 U.S. 517, 533 (1984); *Murphy v. Collins*, 26 F.3d 541, 543-44 (5th Cir. 1994). Rogers received a copy of this Report on December 2, 2011, but filed no objections thereto; accordingly, he 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 pleadings in this cause and 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 (docket no. 11) is hereby ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED as frivolous with prejudice as to its refiling in federal court, but without prejudice as to any claims in state court or through the administrative processes of TDCJ-CID which Rogers may elect to pursue. It is further

ORDERED that any and all motions which may be pending in this action are hereby DENIED. Finally, it is

ORDERED that the Clerk shall send a copy of this order to the Administrator of the Strikes List for the Eastern District of Texas.

**So ORDERED and SIGNED this 10th day of January, 2012.**

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

**LEONARD DAVIS  
UNITED STATES DISTRICT JUDGE**