

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

MILFORD ROOP §
v. § CIVIL ACTION NO. 6:12cv402
DR. JAMES GRAY,, ET AL. §

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

The Plaintiff Milford Roop, 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. The sole named defendant is the Texas Department of Criminal Justice.

On August 30, 2012, the Magistrate Judge ordered Roop to pay an initial partial filing fee of \$6.79, pursuant to 28 U.S.C. §1915(g), or to show good cause why he could not do so. Roop responded to this order by asking that he be allowed to pay the filing fee out of the funds he expects to receive when the lawsuit is settled. He proposed a settlement which included two credit cards without spending limits, \$900,000.00 in cash, a new car of his choice with the Defendants paying for the insurance, and a new house and furniture "regardless of cost with his utility bills paid every month." Roop also asked that he be allowed to get whatever he wants at the Bradshaw Unit commissary, that his driver's license be paid for, and that he should be immediately released from prison in his new car.

After review of the pleadings, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed without prejudice for failure to prosecute or to obey an order of the Court, in

that Roop did not pay the initial partial filing fee or show good cause for this failure to do so. Roop filed objections to the Magistrate Judge's Report on October 12, 2012.

In his objections, Roop states that he wants his objections forwarded to the "Supreme Magistrate Federal Judge." He says that "you all don't want me to get anything from them for what they did to me, here at the Bradshaw State Jail Unit," and that he wants the judge to look at the case and make the final judgment. He asks for the name of the "Supreme Magistrate Federal Judge," including address, phone number, and fax number.

Roop does not mention the payment of the filing fee or object to the Magistrate Judge's conclusion that he had failed to prosecute his case; accordingly, he is barred from *de novo* review by the district judge of these findings and conclusions 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 conducted a careful *de novo* review of the pleadings in this cause, including the Report of the Magistrate Judge and the Plaintiff's objections thereto. 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 (docket no. 22) is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action be and hereby is DISMISSED without prejudice for failure to prosecute or to obey an order of the Court. Rule 41(b), Fed. R. Civ. P. Finally, it is

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

So ORDERED and SIGNED this 7th day of November, 2012.

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

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**