

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

TYLER DIVISION

CURTIS LEE SHEPPARD, JR., #1656666 §
VS. § CIVIL ACTION NO. 6:13cv501
D. DEWBERRY, ET AL. §

ORDER OF DISMISSAL

Plaintiff Curtis Lee Sheppard, Jr., an inmate confined at the Michael Unit of the Texas prison system, proceeding *pro se* and *in forma pauperis*, filed the above-styled and numbered civil rights lawsuit pursuant to 42 U.S.C. § 1983. The complaint was referred to United States Magistrate Judge K. Nicole Mitchell, who issued a Report and Recommendation concluding that the lawsuit should be dismissed with prejudice for purposes of *in forma pauperis* proceedings pursuant to 28 U.S.C. § 1915(g). Sheppard has filed objections.

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, and having made a *de novo* review of the objections raised by Sheppard, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections raised by Sheppard are without merit. It is specifically noted that on June 30, 2014, the Fifth Circuit issued an order pointing out that Sheppard has three strikes for purposes of 28 U.S.C. § 1915(g). *Sheppard v. Dewberry*, No. 13-41321 (5th Cir. June 30, 2014). In light of the order, it became abundantly clear that Sheppard was improvidently granted *in forma pauperis* status. His complaint about being charged a medical co-pay does not give rise to an inference that he was under imminent danger of serious

physical injury at the time he filed the lawsuit in order to satisfy the exception to § 1915(g). Nothing in his objections show that his lawsuit should not be dismissed pursuant to § 1915(g). Therefore the Court hereby adopts the findings and conclusions of the Magistrate Judge as the findings and conclusions of the Court. It is accordingly

ORDERED that the Report and Recommendation (docket entry #31) is **ADOPTED**. It is further

ORDERED that the civil rights complaint is **DISMISSED** with prejudice for purposes of *in forma pauperis* proceedings pursuant to 28 U.S.C. § 1915(g). It is further

ORDERED that Sheppard's *in forma pauperis* status is revoked. Sheppard may resume the lawsuit if he pays the entire filing fee of \$400 within thirty days after the entry of the final judgment. It is finally

ORDERED that all motions not previously ruled on are hereby **DENIED**.

It is SO ORDERED.

SIGNED this 18th day of December, 2014.



MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE