

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

EDWIN SCHNEIDER §
v. § CIVIL ACTION NO. 6:13-cv-816-MHS-JDL
GAYE KARRIKER, ET AL. §

MEMORANDUM ADOPTING INITIAL REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
ON DEFENDANT SHAUNA VESTAL AND ENTERING FINAL JUDGMENT

The Plaintiff Edwin Schneider, 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 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.

All of the Defendants except for Shauna Vestal have previously been dismissed. Service of process on Vestal was attempted by the United States Marshal but was returned unexecuted. On May 13, 2015, the magistrate judge ordered Plaintiff to provide a current address for Vestal or show cause why Vestal should not be dismissed from the lawsuit. Fed. R. Civ. P. 4(m); *see Kersh v. Derozier*, 851 F.2d 1509, 1512 (5th Cir. 1988).

When Plaintiff did not comply with this order, the magistrate judge issued a report recommending that Vestal be dismissed from the lawsuit. The magistrate judge also recommended that the statute of limitations on Plaintiff's claims against Vestal be suspended for a period of 60 days following the entry of final judgment. Plaintiff has not filed objections to this report; 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 proposed factual findings and legal conclusions accepted and adopted by the district

court. 28 U.S.C. § 636(b)(1) (2012); Douglass v. United Serices Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996)(en banc).

The Court has reviewed the record in this cause and the report of the magistrate judge. Upon such review, the Court has determined that the report of the magistrate judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (where no objections to a magistrate judge’s report are filed, the standard of review is “clearly erroneous, abuse of discretion and contrary to law”). It is accordingly

ORDERED that the report of the magistrate judge (Doc. No. 81) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the Plaintiff’s claims against the Defendant Shauna Vestal are **DISMISSED WITHOUT PREJUDICE** for failure to effect service of process. Fed. R. Civ. P. 4(m). It is further

ORDERED that the statute of limitations on Plaintiff’s claims against Vestal is **SUSPENDED** for a period of 60 days following the date of entry of final judgment. It is further

ORDERED that inasmuch as Vestal is the last remaining defendant in this case, this lawsuit is hereby **DISMISSED**. Any and all motions which may be pending in this cause are hereby **DENIED**.

It is SO ORDERED.

SIGNED this 8th day of September, 2015.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE