

Russell states that the magistrate judge did not understand what he is complaining about and did not view his complaint in the light of a *pro se* litigant. Russell also complains that the magistrate judge cited unpublished decisions, to which he has been unable to gain access. He states that the defendants' actions have intensified the arthritis in his hands, although he made no mention of such a claim in his amended complaint.

Russell fails to show that the magistrate judge did not understand his complaint. The report reveals that the magistrate judge painstakingly recounted Russell's factual allegations and identified his legal claims. Nor has Russell shown that the magistrate judge did not treat his complaint with the liberality that befits a *pro se* litigant.

While the magistrate judge did cite some unpublished cases, a review of the report demonstrates that the vast majority of these cases were cited as secondary authority or as examples of factual applications rather than legal principles. The Court is aware that prisoners experience difficulty in gaining access to unpublished cases, but in this instance, the magistrate judge cited published cases in support of each legal conclusion except for the unremarkable proposition that the filing of a false disciplinary case is essentially a claim of malicious prosecution; the magistrate judge then cited a published case to show that there is no federal constitutional claim based on the tort of malicious prosecution. The numerous published cases cited by the magistrate judge were more than ample to permit Russell to research the law and present cogent objections to the magistrate judge's proposed findings, conclusions, and recommendations. Russell's contention that receiving an allegedly false disciplinary case somehow aggravated the arthritis in his hand also fails to show that the magistrate judge's proposed findings, recommendations and conclusions were in error. Russell's objections are without merit.

The Court has conducted a careful *de novo* review of those portions of the magistrate judge's proposed findings and recommendations to which objection was made. *See* 28 U.S.C. §636(b)(1) (district judge shall "make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.") Upon such *de novo* review,

the Court has determined that the report of the magistrate judge is correct and 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. 26) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the Defendants' motion to dismiss (docket no. 21) is **GRANTED** and the above-styled civil action is **DISMISSED WITH PREJUDICE** for failure to state a claim upon which relief may be granted. Fed. R. Civ. P. 12(b)(6). It is further

ORDERED that the Clerk shall send a copy of this opinion to the Administrator of the Three Strikes List for the Eastern District of Texas. Finally, it is

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

SIGNED this 28th day of January, 2015.



MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE