

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

JESSIE LEE WASHINGTON #901757 §
v. § CIVIL ACTION NO. 6:15cv286
JOHN RUPERT, ET AL. §

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

The Plaintiff Jessie Lee Washington, 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.

This lawsuit was severed out of a larger one. Washington was directed to file an amended complaint and to pay the filing fee or seek leave to proceed *in forma pauperis*, but he did not comply. The magistrate judge issued a report noting Washington's failure in this regard, but this report also stated that Washington's lawsuit suffered from a more significant flaw. Court records show Washington has a lengthy history of engaging in frivolous and malicious litigation and he has incurred multiple sanctions. The Fifth Circuit has barred Washington from filing any *pro se, in forma pauperis* initial civil pleading in any court subject to the Fifth Circuit's jurisdiction without the advance written permission of a judge of that court, and the U.S. District Court for the Western District of Texas has sanctioned him \$120.00 and barred him from filing any future civil actions until the sanction was paid or leave of court was obtained. Washington did not receive permission prior to filing this lawsuit and has not shown that the sanction imposed by the Western District has been

satisfied. The magistrate judge recommended that Washington's lawsuit be dismissed as barred for failure to comply with prior sanction orders.

In his objections to the report, Washington complains that the Court is failing to safeguard inmates in the prison and that the three strikes provision of 28 U.S.C. §1915(g) is being used to violate prisoners' rights. His objections do not mention the sanctions imposed upon him which formed the basis of the magistrate judge's report.


The Court has conducted a careful *de novo* review of the pleadings in this case, 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 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. 5) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the Plaintiff is denied *in forma pauperis* status and the above-styled civil action is **DISMISSED** as barred for failure to comply with prior sanction orders. Such dismissal is without prejudice as to the refiling of the lawsuit once all sanctions imposed upon Washington have been satisfied and with permission of a judge of this court, but with prejudice as to its refiling while any sanction remains unsatisfied. Any refiling of this lawsuit shall also be governed by the provisions of 28 U.S.C. §1915(g). It is further

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

SIGNED this 12th day of November, 2015.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE