

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

DARRELL J. HARPER #1957729 §
v. § CIVIL ACTION NO. 6:15cv796
TDCJ-CID, ET AL. §

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

The Plaintiff Darrell Harper, 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.

Harper's lawsuit seeks the institution of criminal charges against TDCJ-CID and a prison guard named Sgt. Butler, whom he says threatened to slam him on the ground. The Magistrate Judge issued a Report recommending that the lawsuit be dismissed because there is no constitutional right to have someone else criminally prosecuted and because Harper has been barred from filing new lawsuits as a result of sanctions imposed by the Fifth Circuit.

Harper filed objections to the Report arguing that the sanctions imposed by the Fifth Circuit are "an absolute nullity" because "the color of state law is in conflict with the Civil Rights Act of 1964 for Plaintiff's filing of employment discrimination complaints [sic]." He contends that the defendants are "legalized criminals impersonating law abiding citizens executing legal scandals." These objections plainly have no merit.

The Court has conducted a careful *de novo* review of those portions of the Magistrate Judge's proposed findings and recommendations to which the Plaintiff objected. *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. 3) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-styled civil action is **DISMISSED WITH PREJUDICE** as frivolous and as barred by sanctions previously imposed upon Harper by the Fifth Circuit Court of Appeals. It is further

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

So **ORDERED** and **SIGNED** this **11** day of **October, 2016**.



Ron Clark, United States District Judge