

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

DARRELL J. HARPER #1957729                   §  
v.   §       CIVIL ACTION NO. 6:16cv288  
STATE OF TEXAS, ET AL.                   §

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

The Plaintiff Darrell Harper, an inmate of the Texas Department of Criminal Justice, Correctional Institutions Division proceeding *pro se*, filed this civil rights lawsuit 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. The named Defendants are the State of Texas and two TDCJ officers, Captain Kevin Smith and Officer Robert Jefferis.

Harper complained of a disciplinary case for refusing to work, which he received on April 1, 2016, three days before filing his lawsuit. After review of the pleadings, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed as barred by sanctions previously imposed upon Harper by the Fifth Circuit Court of Appeals. The Magistrate Judge further observed that Harper had plainly failed to exhaust his administrative remedies. Harper filed objections to the Report stating that “bigotry violated Plaintiff’s constitutional rights to peaceably assemble and petition government for redress of grievances in violation of the Civil Rights Act of 1964 based on race (black) as amended.” He did not address the Magistrate Judge’s proposed findings and conclusions concerning the sanctions against him or the failure to exhaust administrative remedies. Harper’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 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. 4) is **ADOPTED** as the opinion of the District Court. It is further

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

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

**So ORDERED and SIGNED this 16th day of April, 2017.**



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Ron Clark, United States District Judge