

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

DARRELL J. HARPER #1957729 §
v. § CIVIL ACTION NO. 6:16cv1012
DIRECTOR, TDCJ-CID §

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

The Petitioner Darrell Harper, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 complaining of the legality of his confinement. 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.

After review of the pleadings, the Magistrate Judge issued a Report recommending that the petition be dismissed as barred by sanctions imposed upon Harper by the Fifth Circuit Court of Appeals. Harper filed objections asserting that the Fifth Circuit's sanctions amount to a "double standard" as prohibited by the Eighth Amendment, the Civil Rights Act of 1964, the Administrative Procedures Act, the Whistleblower Protection Act, the Americans with Disabilities Act, the Federal Tort Claims Act, and the Deceptive Trade Practices Act. These objections are patently 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 Petitioner 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 Petitioner's objections are without merit. The court finds that Petitioner's Application and his objections were filed for an improper purpose, namely to harass, and impose costs on Defendant. There is no constitutional right of access to the courts to prosecute an action that is frivolous, malicious, or pursued for the sole purpose of harassing another. *Villar v. Crowley Maritime Corp.*, 990 F.2d 1489, 1499 (5th Cir. 1993). It is accordingly

ORDERED that the Petitioner's objections are overruled and the Report of the Magistrate Judge (docket no. 7) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-styled application for the writ of habeas corpus is **DISMISSED WITH PREJUDICE** as barred by sanctions previously imposed upon Harper by the Fifth Circuit Court of Appeals. It is further

ORDERED that the Petitioner Darrell Harper is **DENIED** a certificate of appealability *sua sponte*. Finally, it is

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

So **ORDERED** and **SIGNED** this 7 day of **March, 2017**.



Ron Clark, United States District Judge