

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

WINDELL ROBINSON §
v. § CIVIL ACTION NO. 6:16cv1396
SHERIFF BOTIE HILLHOUSE, ET AL. §

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

The Plaintiff Windell Robinson, 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.

The Defendants Dr. Mongari and Nurse Blake have filed a motion to dismiss stating that they sent copies of their answer and their disclosures to Robinson at his last known address, the Henderson County Jail, but these were returned as undeliverable. The on-line records of the jail show that Robinson was released from the jail on May 22, 2017, and is no longer confined there.

On July 18, 2017, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed without prejudice for failure to prosecute pursuant to Fed. R. Civ. P. 41(b). The Magistrate Judge observed that the original complaint form filed by Robinson contained a notice stating that it is the plaintiff's responsibility to advise the Court of any change of address and the failure to file a notice of change of address could result in the dismissal of the lawsuit.

A copy of this Report was sent to Robinson at his last known address, return receipt requested, but no objections have been received; accordingly, Robinson is barred from *de novo* review by the District Judge of those findings, conclusions, and recommendations and, except upon

grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918, 109 S.Ct. 3243 (1989) (where no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law.") It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 49) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-styled civil action is **DISMISSED WITHOUT PREJUDICE** for failure to prosecute or to obey an order of the Court. Finally, it is

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

So Ordered and Signed

Aug 15, 2017



Ron Clark, United States District Judge