

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

CHARLES DAVID BROOKS §
v. § CIVIL ACTION NO. 6:17cv18
OLIVER BELL, ET AL. §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND DENYING MOTION TO REVOKE PLAINTIFF'S *IN FORMA PAUPERIS* STATUS

The Plaintiff Charles Brooks, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged deprivations 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 have filed a motion to dismiss asking that Brooks' *in forma pauperis* status be revoked as barred by the three-strikes provision of 28 U.S.C. §1915(g). After review of the motion, the Magistrate Judge issued a Report recommending that the motion be denied. No objections were filed to this Report; accordingly, the parties are 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 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. 31) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the Defendants’ motion to revoke Brooks’ *in forma pauperis* status (docket no. 25) is **DENIED**. It is further

ORDERED that the Defendants’ motion to stay future deadlines (docket no. 27) is **GRANTED**. The Defendants shall have 30 days from the date of entry of this order in which to answer or otherwise plead to the Plaintiff’s lawsuit. The deadlines set in the previous scheduling order (docket no. 19) shall begin to run at that time. Finally, it is

ORDERED that the Plaintiff’s motion to amend his complaint to add the Texas Department of Criminal Justice as a defendant in the lawsuit is **DENIED** because the Texas Department of Criminal Justice is an agency of the State of Texas and may not be sued in its own name.

So Ordered and Signed

Apr 13, 2018



Ron Clark, United States District Judge