

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

ELLIOT WILLIAMS, #0481914,

Plaintiff,

v.

JEFFREY CATOE, et al.,

Defendants.

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Case No. 6:17-cv-627-JDK-KNM

**ORDER ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Elliott Williams, a Texas Department of Criminal Justice inmate proceeding pro se, brings this civil rights lawsuit under 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636.

Before the Court are Defendant Vicki White’s motion for summary judgment (Docket No. 265) and Plaintiff’s motion for summary judgment (Docket No. 222). On April 5, 2021, Judge Mitchell issued a Report recommending that the Court grant Defendant White’s motion for summary judgment and deny Plaintiff’s motion for summary judgment regarding Defendant White. Docket No. 286. The Report further recommended that the Court dismiss Plaintiff’s claims against Defendant White with prejudice for failure to state a claim upon which relief can be granted. Plaintiff timely objected. Docket No. 292.

Where a party timely objects to the Report and Recommendation, the Court reviews the objected-to findings and conclusions of the Magistrate Judge de novo. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

In his objections, Plaintiff asserts for the first time that Defendant White was retaliating against him. Docket No. 292 at 6. But a party may not raise “new evidence, argument[s], and issues that were not presented to the magistrate judge, absent compelling reasons.” *Freeman v. Cnty. of Bexar*, 142 F.3d 848, 850 (5th Cir. 1998). No such compelling reasons exist here. “New claims and issues may not, . . . , be raised for the first time in objections to a Report and Recommendation.” *Place v. Thomas*, 61 F. App’x 120, 2003 WL 342287, at *1 (5th Cir. 2003) (citing *United States v. Armstrong*, 951 F.2d 626, 630 (5th Cir. 1992)).

Having conducted a de novo review of the record in this case and the Magistrate Judge’s Report, the Court has determined that the Report of the Magistrate Judge is correct, and Plaintiff’s objections are without merit. Accordingly, the Court hereby **ADOPTS** the Report of the Magistrate Judge (Docket No. 286) as the opinion of the District Court. It is **ORDERED** that Defendant White’s Cross-Motion for Summary Judgment (Docket No. 265) is **GRANTED**. It is further **ORDERED** that Plaintiff’s Motion for Summary Judgment (Docket No. 222) is

DENIED as to Defendant White only. Finally, it is **ORDERED** that Plaintiff's claims against Defendant Vicki White are **DISMISSED WITH PREJUDICE** for failure to state a claim upon which relief can be granted.

So **ORDERED** and **SIGNED** this **4th** day of **June, 2021**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE