

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS

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No. 6:21-cv-00217

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**David Lee Tijerina,**  
*Plaintiff,*

v.

**Gregory Dingas et al.,**  
*Defendants.*

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**ORDER**

Plaintiff David Lee Tijerina, proceeding pro se, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983 and sought leave to proceed in forma pauperis. The case was referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636(b). Doc. 3.

On June 15, 2021, the magistrate judge issued a report recommending that the complaint be dismissed without prejudice as barred by 28 U.S.C. § 1915(g) unless the plaintiff paid the filing fee within fifteen days. Doc. 4. Plaintiff subsequently filed a letter and affidavit, which the court deems to constitute written objections. Doc. 5.

The court reviews the objected-to portions of a magistrate judge's report and recommendation de novo. *See* Fed. R. Civ. P. 72(b)(3); 28 U.S.C. § 636(b)(1). The magistrate judge recommended dismissal because plaintiff did not pay the filing fee and is barred by 28 U.S.C. § 1915(g) from proceeding in forma pauperis. Doc. 4. Plaintiff's objection does not refute that basis for dismissal (Doc. 5), and he has not paid the fee required by 28 U.S.C. § 1914(a) to file a civil action in this court.

Having reviewed the magistrate judge's report de novo, and being satisfied that it contains no error, the court over-rules plaintiff's objections and accepts the report's findings and recommendation. This case is dismissed without prejudice pursuant to 28 U.S.C. § 1915(g).

*So ordered by the court on July 14, 2021.*

A handwritten signature in black ink, appearing to read "J. Campbell Barker". The signature is written in a cursive style with a prominent initial "J".

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J. CAMPBELL BARKER  
United States District Judge