

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

RANDALL ALLAN COUNTS,

Plaintiff,

v.

BARBRA NEAL, et al.,

Defendants.

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Case No. 6:23-cv-333-JDK-JDL

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

Plaintiff Randall Allan Counts, a Texas Department of Criminal Justice inmate proceeding pro se, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge John D. Love for findings of fact, conclusions of law, and recommendations for disposition.

On April 10, 2024, Judge Love issued a Report recommending that the Court dismiss Plaintiff’s claims against Defendants in their official capacities without prejudice for lack of jurisdiction, dismiss Plaintiff’s claims for injunctive relief as moot, dismiss Plaintiff’s claims against Defendants Lumpkin, Adeniran, and Marshall in their individual capacities with prejudice for failure to state a claim pursuant to 28 U.S.C. § 1915A(b)(1), and dismiss Plaintiff’s claims against Defendant Neal without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i). Docket No. 17. A copy of this Report was sent to Plaintiff. However, no objections have been received.

This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 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 Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).


Here, Plaintiff did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews the legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 17) as the findings of this Court. It is therefore **ORDERED** that Plaintiff's claims against Defendants in their official capacities are **DISMISSED** without prejudice for lack of jurisdiction. Plaintiff's claim for injunctive relief is **DISMISSED** with prejudice as moot. Plaintiff's claims against Defendants Lumpkin, Adeniran, and Marshall in their individual capacities are **DISMISSED** with prejudice for failure to state a claim pursuant to 28 U.S.C. §

1915A(b)(1). Finally, Plaintiff's claim against Defendant Neal in her individual capacity is **DISMISSED** without prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(i).

So ordered and signed on this

Jun 3, 2024



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE