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

KEVIN JAMES MANNING,	§	
Plaintiff,	§	
v.	§	
JUDGE SCOTT MCKEE, et al.,	§	Case No. 6:23-cv-464-JDK-KNM
Defendants.	§	

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

Plaintiff Kevin Manning, a former inmate of the Henderson County Jail proceeding pro se, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983. The case was referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact, conclusions of law, and recommendations for disposition.

On October 9, 2024, Judge Mitchell issued a Report recommending that Plaintiff's claims concerning the validity of his conviction be dismissed with prejudice for failure to state a claim until such time as Plaintiff can show that this conviction has been reversed, expunged, or otherwise set aside. Docket No. 14. The Report further recommended that Plaintiff's remaining claims be dismissed without prejudice for failure to state a claim upon which relief may be granted. *Id.*

Plaintiff has not filed any objections. A copy of this Report was sent to Plaintiff at his last known address but was returned as undeliverable. Docket No. 15. To date, Plaintiff has not advised the Court of his current mailing address. *See* Loc. R. CV-

11(d) ("A *pro se* litigant . . . is responsible for keeping the clerk advised in writing of his or her current physical address."); Docket No. 6 at 5 (Plaintiff's amended complaint including a declaration stating that Plaintiff has the responsibility to keep the Court informed of his current mailing address).

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 Ass'n*, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).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) (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. 14) as the findings of this Court. It is therefore **ORDERED** that Plaintiff's claims which implicate the validity of his

conviction are **DISMISSED** with prejudice for failure to state a claim until such time as Plaintiff can show that this conviction has been reversed, expunged, or otherwise set aside, and Plaintiff's remaining claims are **DISMISSED** without prejudice for failure to state a claim upon which relief may be granted.

So **ORDERED** and **SIGNED** this **26th** day of **November, 2024.**

JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE