

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

JESSE COPELAND §
v. § CIVIL ACTION NO. 9:08cv94
BRAD LIVINGSTON, ET AL. §

MEMORANDUM ADOPTING AMENDED REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
ON PLAINTIFF'S MOTION FOR RELIEF FROM JUDGMENT

The Plaintiff Jesse Copeland, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations 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 lawsuit was dismissed on August 7, 2009, but Copeland subsequently notified the Court that he had not received a copy of the Report of the Magistrate Judge. The Court ordered that a copy of the Report be sent to Copeland and gave him 30 days in which to file objections thereto. Copeland filed objections to the Report, along with a motion for relief from judgment.

The Magistrate Judge properly construed the motion for relief from judgment together with the objections, and issued a Report on January 20, 2010, recommending that the motion for relief from judgment be denied. Copeland filed objections to this Report on February 2, 2010.

On February 11, 2010, the Magistrate Judge issued an amended Report recommending that the motion for relief be granted as to the Plaintiff's claim that he was forced to worship in a chapel containing Christian icons. The Magistrate Judge recommended that the lawsuit be reopened and the Plaintiff allowed to proceed on this claim.

Copeland filed objections to the Magistrate Judge's amended Report on February 24, 2010. These objections argue that he should be allowed to proceed on his entire case, not the one single claim. Copeland's remaining claims lack merit and were dismissed for this reason, and he has not shown that the dismissal of these claims was improper.

The Court has conducted a careful *de novo* review of the pleadings in this case, including the original Report, the Plaintiff's objections thereto, the Plaintiff's motion for relief from judgment, the Amended Report of the Magistrate Judge addressing this motion, and the objections of the Plaintiff to the Amended Report addressing the motion for relief from judgment. Upon such *de novo* review, the Court has concluded that the Amended Report of the Magistrate Judge is correct, and that the Plaintiff's objections are without merit. It is accordingly

ORDERED that the Plaintiff's objections are overruled and that the Amended Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the Plaintiff's motion for relief from judgment (docket no. 32), which incorporates the objections filed on November 30, 2009, is hereby GRANTED as to the Plaintiff's claim that he was forced to worship in a chapel containing Christian icons, which he says is offensive to his Muslim faith. The above-styled lawsuit shall be REOPENED by the Clerk and placed on the active docket for the purpose of adjudicating this claim. It is further

ORDERED that the Plaintiff's motion for relief from judgment is DENIED in all other respects.

So **ORDERED** and **SIGNED** this **12** day of **March, 2010**.



Ron Clark, United States District Judge