



the lawsuit is the Polunsky Unit, which is not amenable to suit in its own name and which is a sub-unit of a state agency, and thus immune from suit under the Eleventh Amendment even if it could be sued in its own name. Because the sole named Defendant is not amenable to suit, the Magistrate Judge recommended that the lawsuit be dismissed with prejudice.

Howe filed objections to the Magistrate Judge's Report on November 5, 2008. These objections focus on his claimed inability to obtain a data sheet. He does not mention his failure to file an amended complaint, as the Magistrate Judge had directed. Howe also says that he "never claimed that the Polunsky Unit was the plaintiff" [sic] but that the court in Corpus Christi had styled the lawsuit as *Howe v. Polunsky Unit*. A review of the complaint shows that Howe did not name any individual defendants in his lawsuit, which was not done on a standard Section 1983 lawsuit form; it was for this reason that the Magistrate Judge ordered Howe to file an amended complaint, which would have allowed him to specify the persons whom he wished to sue. Howe's objections are without merit.

The Court has conducted a careful *de novo* review of the pleadings and documents in this case, including the Plaintiff's complaint and pleadings, the Report of the Magistrate Judge, the Plaintiff's objections thereto, and all other pleadings, documents, and records in the case. Upon such *de novo* review, the Court has concluded that the 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 the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil action against the Polunsky Unit be and hereby is DISMISSED with prejudice as frivolous. This dismissal shall not prevent Howe from refileing such claims as he may have against defendants who are amenable to suit. It is further

ORDERED that any and all motions which may be pending in this civil action are hereby DENIED.

So **ORDERED** and **SIGNED** this **1** day of **December, 2008**.

A handwritten signature in cursive script, appearing to read "Ron Clark".

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Ron Clark, United States District Judge