

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

WELSEY SHORT §
v. § CIVIL ACTION NO. 9:09cv214
ROBERT ALLEN BYRD, ET AL. §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Wesley Short, an inmate of the Texas Department of Criminal Justice, Correctional Institutions Division 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 matter 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.

On March 8, 2010, the Magistrate Judge ordered Short to file an amended complaint setting out a short and plain statement of his claim. Although Short filed a number of pleadings thereafter, none of these contained a short and plain statement of his claims, even when given the most liberal reading possible.

On May 7, 2010, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed without prejudice. Because Short's pleadings were so unclear that the effect of the statute of limitations could not be determined, the Magistrate Judge also recommended that the statute of limitations be suspended for 60 days following the date of entry of final judgment.

Short received a copy of the Magistrate Judge's Report on May 12, 2010. On May 25, 2010, he filed a "motion for an investigation." This motion briefly refers to the Magistrate Judge's Report

and so will be construed as objections thereto. However, Short does not allude to the order that he file an amended pleading, nor to the recommendation that his lawsuit be dismissed for the failure to do so; instead, he asks that the Court order an investigation by a “skillful and train[ed] officer DEA, Task Force, FBI high level informer,” to “trace I-Pod phone recordings to show hard-earned evidence.” Short’s objections are patently without merit.

The Court has conducted a careful *de novo* review of the pleadings in this case, the Report of the Magistrate Judge, the Plaintiff’s “motion for an investigation” which has been construed as 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 be and hereby is DISMISSED without prejudice for failure to prosecute or to obey an order of the Court. It is further

ORDERED that the statute of limitations on the claims raised in this lawsuit is hereby SUSPENDED for a period of 60 days following the date of entry of final judgment. *See Mills v. Criminal District Court No. 3*, 837 F.2d 677 (5th Cir. 1988); *Rodriguez v. Holmes*, 963 F.2d 799 (5th Cir. 1992). Finally, it is

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

So ORDERED and SIGNED this 8 day of June, 2010.



Ron Clark, United States District Judge