

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

WESLEY 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, 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.

Short’s lawsuit was dismissed for failure to prosecute or to obey an order of the Court on June 8, 2010. Short did not appeal this dismissal; instead, he has inundated the Court with pleadings and letters, including no fewer than three motions for relief from judgment. On September 9, 2011, the Magistrate Judge issued a Report recommending that Short’s third motion for relief from judgment be denied and that the Clerk be directed to refuse all further filings in this case except for a proper notice of appeal and application for leave to proceed *in forma pauperis* in conjunction with this appeal. Short received a copy of this Report on September 16, 2011, but filed no objections thereto; accordingly, he is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has carefully reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 42) is ADOPTED as the opinion of the District Court. It is further

ORDERED that the Plaintiff's third motion for summary judgment, construed as a motion for reconsideration of the final judgment (docket no. 41) is hereby DENIED. It is further

ORDERED that the Clerk shall refuse all further filings in this case from the Plaintiff Wesley Short except for a proper notice of appeal and filing fee payment or application for leave to proceed *in forma pauperis* in connection with a proper appeal. Any such pleadings, other than these, which are received from the Plaintiff Wesley Short shall be returned to the Plaintiff or may be discarded at the option of the Clerk.

So **ORDERED** and **SIGNED** this **12** day of **October, 2011**.



Ron Clark, United States District Judge