

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION

DAVID WAYNE SMITH,)
Institutional ID No. 2010208,)
)
Plaintiff,)
)
V.)
)
LINDA GONZALES,)
)
Defendant(s).)

CIVIL ACTION NO.
1:17-CV-093-C

ORDER

The United States Magistrate Judge entered a Report and Recommendation on February 2, 2018, and as of this date, no objections have been filed of record.

The undersigned United States District Judge has reviewed the Report and Recommendation for clear error and, finding none, accepts and adopts the findings, conclusions, and recommendation of the Magistrate Judge.

It is, therefore, ORDERED that Plaintiff’s complaint and all claims alleged therein are **DISMISSED WITH PREJUDICE** as frivolous and for failure to state a claim.

Judgment shall be entered accordingly.

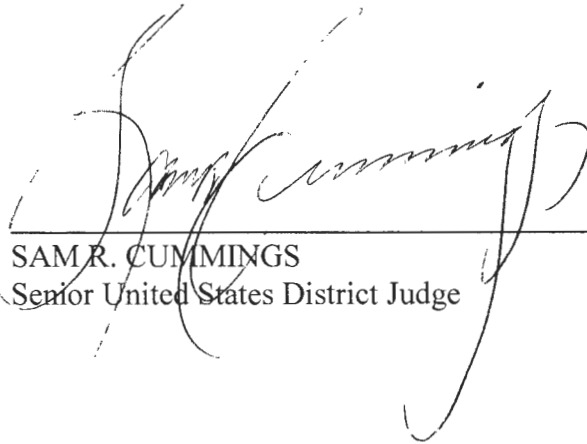
This dismissal shall count as a qualifying dismissal under 28 U.S.C. § 1915(g) and *Adepegba v. Hammons*, 103 F.3d 383 (5th Cir. 1996).

Dismissal of this action does not release Plaintiff or the institution where he is incarcerated from the obligation to pay any filing fee previously imposed. *See Williams v. Roberts*, 116 F.3d 1126, 1128 (5th Cir. 1997).

Plaintiff is advised that if he appeals this Order, he will be required to pay the appeal fee of \$505.00 pursuant to the PLRA, and he must submit an application to proceed *in forma pauperis* and a 6-month Certificate of Inmate Trust Account at the same time he files his notice of appeal.

Any pending motions are **DENIED**.

Dated February 26, 2018.



SAM R. CUMMINGS
Senior United States District Judge