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

HENRY WATKINS SKINNER,

Plaintiff,

vs.

LYNN SWITZER,
District Attorney,
31st Judicial District of Texas,

Defendant.

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2:09-CV-0281

**ORDER OVERRULING OBJECTIONS,
ADOPTING REPORT AND RECOMMENDATION,
GRANTING DEFENDANT'S MOTION TO DISMISS,
and DISMISSING § 1983 COMPLAINT**

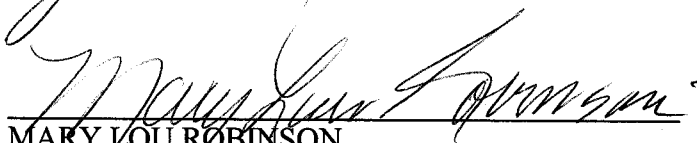
Plaintiff HENRY WATKINS SKINNER has filed with this Court a cause of action under Title 42 U.S.C. § 1983. On January 15, 2010, the United States Magistrate Judge issued a Report and Recommendation in this cause, recommending therein that defendant's motion to dismiss be granted and plaintiff's complaint be dismissed for failure to state a claim under Federal Rule of Civil Procedure 12(b)(6) and *Kutzner v. Montgomery County*, 303 F.3d 339 (5th Cir. 2002). The same day the Report and Recommendation was issued, plaintiff filed objections to it, admitting that while the *Kutzner* and its progeny are binding upon this Court, the caselaw is incorrect in light of Supreme Court precedent. Plaintiff represents he intends to make no further objections before the expiration of the fourteen-day objection deadline.

The undersigned United States District Judge has made an independent examination of the record in this case and has considered the objections made by petitioner to the Report and

Recommendation. The objections filed by petitioner are without merit and are hereby OVERRULED. The Magistrate Judge's Report and Recommendation is hereby ADOPTED. Defendant's motion to dismiss under Federal Rule of Civil Procedure 12(b)(6) is GRANTED, and the § 1983 complaint is DISMISSED.

IT IS SO ORDERED.

ENTERED this 20th day of January 2010.



MARY LOU ROBINSON
UNITED STATES DISTRICT JUDGE