

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

JOSE TRINIDAD FLORES,  
 # 1725709,

Plaintiff,

v.

GREG DAVIS, *et al.*,

Defendants.

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2:16-CV-230-D

**ORDER**

After making an independent review of the pleadings, files, and records in this case, the July 17, 2018, findings, conclusions, and recommendation of the magistrate judge, and petitioner’s August 9, 2018 objections, the court concludes the magistrate judge’s findings and conclusions are correct. It is therefore ordered that petitioner’s objections are overruled, the recommendation of the magistrate judge is adopted, and this action is dismissed without prejudice.


The court prospectively certifies that any appeal of this action would not be taken in good faith. *See* 28 U.S.C. § 1915(a)(3); Fed. R. App. P. 24(a)(3). In support of this finding, the court adopts and incorporates by reference the magistrate judge’s findings, conclusions, and recommendation. *See Baugh v. Taylor*, 117 F.3d 197, 202 n.21 (5th Cir. 1997). Based on the findings and recommendation, the court concludes that any appeal of this action would present no legal point of arguable merit and would, therefore, be frivolous. *Howard v. King*, 707 F.2d 215, 220 (5th Cir. 1983).

If plaintiff appeals, he may challenge this certification by filing a separate motion to proceed *in forma pauperis* on appeal with the Clerk of the Court, United States Court of Appeals for the Fifth

Circuit. *See Baugh*, 117 F.3d at 202; Fed. R. App. P. 24(a)(5).

**SO ORDERED.**

August 17, 2018.

  
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SIDNEY A. FITZWATER  
UNITED STATES DISTRICT JUDGE