

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

RICHARD ANTHONY HEROD,  
TDCJ-CID No. 01795915,

Plaintiff,

v.

2:22-CV-86-Z-BR

BOBBY LUMPKINS, *et al.*,

Defendants.

**ORDER ADOPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION**

Before the Court are the findings, conclusions, and recommendation of the United States Magistrate Judge to grant in part and deny in part (“FCR”) (ECF No. 27), Defendants’ Motion to Dismiss (ECF No. 23), and Plaintiff’s Motion for an Extension of Time (“Motion”) (ECF No. 28).

Plaintiff submitted objections to the FCR on February 1, 2024, where he “agree[d] with” the FCR except as to defendant William Williamson. ECF No. 31 at 4. Plaintiff argues now, as he has before, that Williamson “abuse[d] his authority and threaten[ed] witnesses.” *Id.* at 2. The FCR found that these allegations amount to an “improper grievance investigation” and “fail[] to state a claim” under Federal Rule of Civil Procedure 12(b)(6). ECF No. 27 at 8. This Court agrees with the FCR.

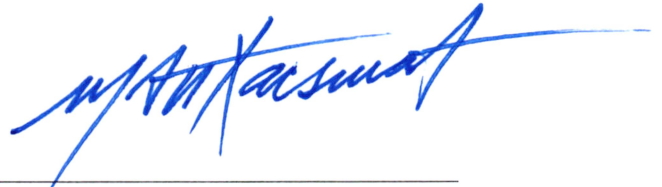
After making an independent review of the pleadings, files, and records in this case, the Court concludes that the findings, conclusions, and recommendation of the Magistrate Judge are correct. It is therefore **ORDERED** that the findings, conclusions, and recommendation of the Magistrate Judge are **ADOPTED** as follows:

1. Plaintiff's claims for money damages against all Defendants in their official capacities are **DISMISSED** without prejudice, pursuant to FED. R. CIV. P. 12(b)(1).
2. Defendants' Motion to Dismiss pursuant to FED. R. CIV. P. 12(b)(6) is **GRANTED** as to all claims against Defendants Bobby Lumpkin, Adam Gonzales, William Williamson and Timothy King, and is otherwise **DENIED**.
3. Plaintiff is hereby given leave to amend his claim for prospective injunctive relief and his claim against Timothy King for failure to render aid. Amending any other claims would be futile for the reasons set forth in the findings, conclusions, and recommendation. Any amended Complaint must be filed within twenty (20) days of the date of this Order.

It is **FURTHER ORDERED** that Plaintiff's Motion (ECF No. 28) is **DENIED** because it is moot. The FCR instructs Plaintiff to amend his complaint "within 20 days of the District Judge ruling on this FCR . . ." ECF No. 27 at 12. Plaintiff's deadline is within 20 days of the date of this Order — not the FCR — so his motion is moot. *See* ECF No. 28 at 1 (Plaintiff assumed time begins to run on January 3, 2024).

**SO ORDERED.**

February 5, 2024.



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MATTHEW J. KACSMARYK  
UNITED STATES DISTRICT JUDGE