

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

GRADY ALLEN DAVIS,

Plaintiff,

v.

SHERIFF LUPE VALDEZ, et al.,

Defendants.

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Civil Action No. **3:12-CV-2013-L**

ORDER

On August 15, 2015, the United States Court of Appeals for the Fifth Circuit reversed the summary judgment entered in this case in favor of Defendants DSO F. Hernandez (“Hernandez”) and DSO Cody Hill (“Hill”) (Doc. 62) and remanded the case for further proceedings.* On January 5, 2016, Magistrate Judge David L. Horan entered Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) recommending that court revoke Plaintiff’s *in forma pauperis* status and dismiss without prejudice Plaintiff’s claims against Hernandez and Hill pursuant to Federal Rule of Civil Procedure 41(b), for failure to prosecute and comply with court orders. No objections to the Report were filed, and, as of today’s date, Plaintiff has made no contact with the court.

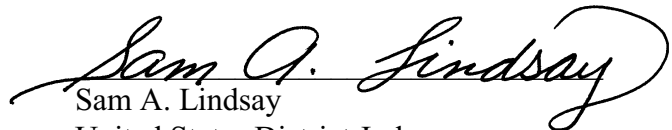
After reviewing the pleadings, file, the record in this case, and Report, the court determines that the findings and conclusions of the magistrate judge are correct and **accepts** them as those of the court. The court, therefore, **revokes** Plaintiff’s *in forma pauperis* status and **dismisses without**

* Plaintiff’s claims against the remaining Defendant in this case were dismissed with prejudice on September 6, 2012 (Doc. 14).

prejudice Plaintiff's claims against Hernandez and Hill pursuant to Federal Rule of Civil Procedure 41(b) for failure to prosecute and comply with court orders.

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. 24(a)(3). In support of this certification, the court **accepts and incorporates** by reference the Report. *See Baugh v. Taylor*, 117 F.3d 197, 202 and n.21 (5th Cir. 1997). 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). In the event of an appeal, Plaintiff may challenge this certification by filing a separate motion to proceed *in forma pauperis* on appeal with clerk of the United States Court of Appeals for the Fifth Circuit. *See Baugh*, 117 F.3d at 202; F. R. App. 24(a)(5).

It is so ordered this 27th day of January, 2016.


Sam A. Lindsay
United States District Judge