

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

MARVIN L. MALONE, #411853,

Plaintiff,

v.

GARY JOHNSON, et al.,

Defendants.

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Civil Action No. **3:15-CV-3717-L**

ORDER

Plaintiff Marvin L. Malone (“Plaintiff”) filed this action pursuant to 42 U.S.C. § 1983 to challenge his parole revocation against Defendants Gary Johnson, Carl Jefferies, Geraid Garret, and Board of Texas Pardons and Paroles.* The case was referred to Magistrate Judge Renée Harris Toliver, who entered Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) on April 25, 2016, recommending that the court deny Plaintiff’s Application to Proceed In Forma Pauperis (Doc. 7), filed December 14, 2015, and dismiss with prejudice this action as frivolous pursuant to 28 U.S.C. § 1915A(b). The magistrate judgment further recommended that Plaintiff not be allowed to amend his pleadings. Objections to the Report were received and docketed on May 12, 2016.

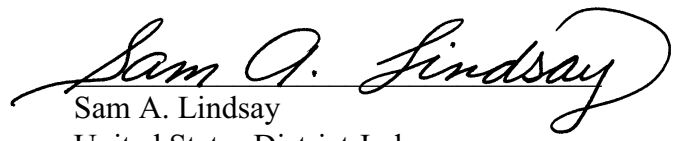
After considering the Application to Proceed In Forma Pauperis, pleadings, file, record, and Report, and having conducted a de novo review of that portion of the Report to which objection was made, the court determines that the findings and conclusions of the magistrate judge are correct, and

* Plaintiff’s abandoned his claims against Defendants Unidentified Parole Board Members and Parole Officers in his Amended Complaint. On January 5, 2016, the magistrate judge, therefore, directed the clerk of the court to terminate these Plaintiffs as parties.

accepts them as those of the court. Accordingly, the court **overrules** Plaintiff's objections, **denies** Plaintiff's Application to Proceed In Forma Pauperis (Doc. 7), and **dismisses with prejudice** this action as frivolous, pursuant to 28 U.S.C. § 1915A(b). As Plaintiff previously abandoned his claims against Defendants Unidentified Parole Board Members and Parole Officers, the court **dismisses** without prejudice Plaintiff's claim against these Defendants.

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; Fed. R. App. 24(a)(5).

It is so ordered this 7th day of June, 2016.


Sam A. Lindsay
United States District Judge