

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

**DEMARCUS KENARD JOE, #1047716,**

Plaintiff,

v.

**UNITED STATES MAGISTRATE  
JUDGE PAUL D. STICKNEY and  
COMMISSIONER JOHN WILEY PRICE,**

Defendants.

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Civil Action No. **3:17-CV-421-L**

**ORDER**

This case was referred to United States Magistrate Judge Renée Harris Toliver, who entered the Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) on April 13, 2017, recommending that this action be dismissed with prejudice pursuant Federal Rule of Civil Procedure 41(b) for failure to prosecute or comply with a court order. No objections to the Report were received as of the date of this order.

After considering the pleadings, file, the record, and Report, the court determines that the findings and conclusions of the magistrate judge are correct, and **accepts** them as those of the court. Accordingly, the court **dismisses with prejudice** this action pursuant Federal Rule of Civil Procedure 41(b) for failure to prosecute or comply with a court order.

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 the 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 10th day of May, 2017.

  
Sam A. Lindsay  
United States District Judge