

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

JOANN B. SEMPLE,

Plaintiff,

v.

HICKORY TRAIL HOSPITAL, LP,

Defendant.

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Civil Action No. **3:17-CV-1561-L-BT**

ORDER

The case was referred to Magistrate Judge Rebecca Rutherford, who entered the Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) on January 30, 2018, recommending that the court dismiss with prejudice as frivolous this action under 28 U.S.C. § 1915(e). No objections to the Report were filed.

After carefully reviewing the pleadings, file, record in this case, and Report, the court determines that the findings and conclusions of the magistrate judge are correct, **accepts** them as those of the court, and **dismisses with prejudice** this action as frivolous pursuant to 28 U.S.C. § 1915(e).*

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 certification, the court **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

* On January 30, 2018, after Plaintiff responded to the magistrate judge’s questionnaire, the magistrate judge vacated a prior Report entered on November 20, 2018, that recommended dismissal of the action for want of prosecution. Plaintiff also amended her pleadings before the magistrate judge entered the most recent Report recommending that the action be dismissed as frivolous.

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. P. 24(a)(5).

It is so ordered this 9th day of April, 2018.


Sam A. Lindsay
United States District Judge