

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

BRUCE ALLEN MASSEY,

Plaintiff,

v.

RENE HINOJOSA,

Defendant.

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Civil Action No. **3:21-CV-451-L-BH**

ORDER


The Findings, Conclusions and Recommendation of the United States Magistrate Judge (“Report”) (Doc. 10) was entered on May 24, 2021, recommending that the court deny Plaintiff’s Motion for Leave to Proceed In Forma Pauperis (Doc. 7), filed March 30, 2021, and dismiss without prejudice this action under Federal Rule of Civil Procedure 41(b) for failure to prosecute and comply with a court order. No objections to the Report were filed as of the date of this order, and the deadline for filing objections has expired.

Having considered motion, file, 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. Accordingly, the court **denies** Plaintiff’s Motion for Leave to Proceed In Forma Pauperis (Doc. 7) and, pursuant to Rule 41(b), it **dismisses without prejudice** this action for failure to prosecute and 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. P. 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). Based on the Report, the court finds that any appeal of this action would

present no legal point of arguable merit and would, therefore, be frivolous. *See 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 25th day of June, 2021.


Sam A. Lindsay
United States District Judge