

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

MICHAEL DEWAYNE WHALEY,

Plaintiff,

v.

CLERK OF 282 DIST DALLAS
COUNTY, ET AL.,

Defendants.

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Civil Case No. 3:21-CV-03149-X-BH

**ORDER ACCEPTING FINDINGS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

The United States Magistrate Judge made findings, conclusions, and a recommendation in this case. No objections were filed. The District Court reviewed the proposed findings, conclusions, and recommendation for plain error. Finding none, the Court **ACCEPTS** the Findings, Conclusions, and Recommendation of the United States Magistrate Judge.

For the reasons stated in the Findings, Conclusions, and Recommendation of the United States Magistrate Judge, the *pro se* plaintiff's amended complaint, received on December 15, 2021 [Doc. No. 3], will be **DISMISSED sua sponte** by separate judgment. The plaintiff's habeas claims and his claims against "trial officials" of the 282nd Judicial District Court, including the court clerk and the district attorney, will be **DISMISSED** with prejudice under Federal Rule of Civil Procedure 12(b)(6), and any non-habeas claims against the Texas Department of Criminal Justice and the Board of Pardons and Parole will be **DISMISSED** without

prejudice under Rule 12(b)(1).

Because monetary sanctions have been ineffective, the plaintiff will also be **SANCTIONED** and **BARRED** from filing any further challenges to ANY of his 1993 convictions and sentences in this court – whether filed in this court, filed in another court and removed or transferred to this court, or filed in a civil non-habeas action – unless he first (1) pays the entire filing fee, (2) demonstrates that he has satisfied all outstanding monetary sanctions against him, (3) presents proof that he has obtained prior authorization from the Fifth Circuit, **AND** (4) obtains leave of court to file the action from a district judge or magistrate judge through a proper motion for leave to file. Any future submission inconsistent with this bar, either directly or indirectly by removal or transfer, should be docketed for administrative purposes only, and the new case should be closed after docketing a copy of the judgment in this case in that case.

If the plaintiff files a notice of appeal, he must pay the \$505.00 appellate filing fee or submit a motion to proceed *in forma pauperis*.

IT IS SO ORDERED this 1st day of March 2022.

A handwritten signature in black ink, appearing to read "Brantley Starr", written over a horizontal line.

BRANTLEY STARR
UNITED STATES DISTRICT JUDGE