

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

| | | |
|--------------------------------------|---|------------------|
| STEVE GREEN, |) | |
| <i>aka</i> STEVE O'NEAL GREEN, |) | |
| Institutional ID No. 1436873, |) | |
| SID No. 4149406 |) | |
| |) | |
| Plaintiff, |) | CIVIL ACTION NO. |
| |) | 5:10-CV-00066-C |
| V. |) | |
| |) | |
| NURSE NFN RESPONDEK, <i>et al.</i> , |) | |
| |) | |
| Defendants. |) | ECF |

ORDER

Plaintiff Steve Green, *aka* Steve O'Neal Green, filed a *pro se* civil rights complaint pursuant to 42 U.S.C. § 1983 against Defendants NFN Respondek, a prison nurse, and NFN Parker, a prison mailroom supervisor, for alleged constitutional violations while he was incarcerated in the Texas Department of Criminal Justice ("TDCJ") John T. Montford Unit in Lubbock, Texas.

The complaint was transferred to the docket of the United States Magistrate Judge, who held a televideo hearing pursuant to *Spears v. McCotter*, 766 F.2d 179, 181-82 (5th Cir. 1985), on December 14, 2010. Plaintiff appeared and testified under oath. He did not consent to proceed before the United States Magistrate Judge.

Pursuant to this Court's Order entered on July 23, 2010, the Magistrate Judge entered findings of fact, conclusions of law, and a recommendation for disposition on January 7, 2011. Plaintiff did not file objections, but he filed a motion for extension of time within which to file objections on January 21, 2011, a motion for leave to file an amended complaint on January 21, 2011, with an attached complaint, and a motion to proceed *in forma pauperis*.

The undersigned United States District Judge has made an independent examination of the record in this case and has examined the findings, conclusions, and recommendation of the Magistrate Judge and considered Plaintiff's motions, including the motion for an extension of time within to file objections. Based upon this Court's independent examination of the record of the evidentiary hearing, Plaintiff's complaint, Plaintiff's sworn testimony, and authenticated prison records, the Court finds the following:

1. Even though Plaintiff requested a thirty-day extension of time within which to file objections to the Report and Recommendation, he was able to file a request for leave to file an amended complaint with an attached amended complaint within ten days of the Report and Recommendation and he has failed to file objections as of this date; therefore, his request for an extension of time within which to file objections should be denied.

2. Plaintiff's request to file an amended complaint should be denied; the amended complaint contains a new defendant and claims that allegedly occurred after Plaintiff was transferred to the TDCJ Neal Unit in Amarillo, Texas.

3. The Magistrate Judge's findings, conclusions, and recommendation should be accepted and adopted, and Plaintiff's civil rights complaint and all claims alleged therein should be dismissed with prejudice as frivolous.

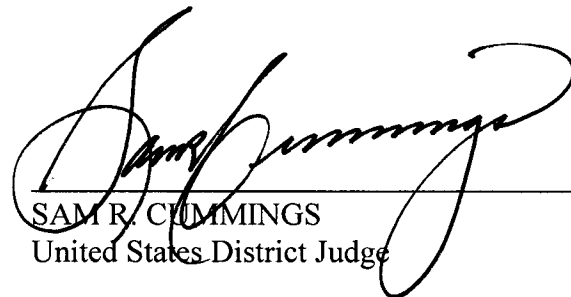
SO ORDERED.

Judgment shall be entered accordingly.

The dismissal of Plaintiff's complaint shall count as a qualifying dismissal under 28 U.S.C. § 1915(g) and *Adepegbe v. Hammons*, 103 F.3d 383 (5th Cir. 1996).

Any pending motions are denied.

Dated August 2, 2011.



SAM R. CUMMINGS
United States District Judge