

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

MARK JAMAL KEARNEY,

Plaintiff,

VS.

GARY L CURRIE, *et al*,

Defendants.

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CIVIL ACTION NO. 2:14-CV-00039

**ORDER ADOPTING MEMORANDUM AND RECOMMENDATION
TO DISMISS CERTAIN CLAIMS AND TO RETAIN CASE**

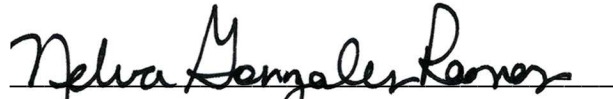
On May 21, 2014, United States Magistrate Judge Jason B. Libby issued his “Memorandum and Recommendation to Dismiss Certain Claims and to Retain Case” (D.E. 9). The Plaintiff was provided proper notice of, and opportunity to object to, the Magistrate Judge’s Memorandum and Recommendation. FED. R. CIV. P. 72(b); 28 U.S.C. § 636(b)(1); General Order No. 2002-13. No objections have been filed.

When no timely objection to a magistrate judge’s memorandum and recommendation is filed, the district court need only satisfy itself that there is no clear error on the face of the record and accept the magistrate judge’s memorandum and recommendation. *Guillory v. PPG Industries, Inc.*, 434 F.3d 303, 308 (5th Cir. 2005) (citing *Douglass v. United Services Auto Ass’n*, 79 F.3d 1415, 1420 (5th Cir. 1996)).

Having reviewed the findings of fact and conclusions of law set forth in the Magistrate Judge’s Memorandum and Recommendation (D.E. 9), and all other relevant documents in the record, and finding no clear error, the Court **ADOPTS** as its own the findings and conclusions of the Magistrate Judge. Accordingly, the Court **RETAINS**

Plaintiff's First Amendment and RLUIPA claims for declaratory and injunctive relief against Defendants Brad Livingston and William Stephens in their official capacities, and **ORDERS** that these Defendants be served, and upon such service, that Plaintiff's claims concerning his right to wear a quarter-inch beard be automatically **STAYED** pending resolution of the issue in *Ali v. Stephens*, Case No. 9:09-cv-052. The Court **RETAINS** Plaintiff's Due Process and/or Eighth Amendment claim(s) against Warden Monroe in his individual capacity and **ORDERS** service on this Defendant. The Court **DISMISSES** Plaintiff's claims against Warden Currie and Warden Clark with prejudice for failure to state a claim and/or as frivolous. The Court **DISMISSES** claims for money damages against Defendants in their official capacities as barred by the Eleventh Amendment.

ORDERED this 23rd day of June, 2014.


NELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE