

United States District Court  
Southern District of Texas

**ENTERED**

May 17, 2017

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

JOE EDWARD NESMITH,  
Plaintiff,

v.

ROBERT M. SPEER,  
Defendant/Movant.

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CIVIL ACTION NO. 2:16-CV-491

**ORDER ADOPTING MEMORANDUM AND RECOMMENDATION**

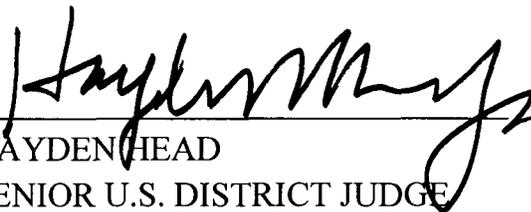
On April 4, 2017, United States Magistrate Judge Jason B. Libby issued his “Memorandum and Recommendation” on Defendant’s motion to dismiss. D.E. 17. The parties were provided proper notice of, and opportunity to object to, the Magistrate Judge’s Memorandum and Recommendation. Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1). 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)).

The Court has reviewed the findings of fact and conclusions of law set forth in the Magistrate Judge’s Memorandum and Recommendation (D.E. 17), 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 **GRANTS in**

**part** Defendant's motion to dismiss Plaintiff's second EEO Complaint for failure to Exhaust administrative remedies and **DENIES** Defendant's motion to dismiss Plaintiff's First EEO Complaint. The Clerk shall enter this order and provide a copy to all parties.

It is so ORDERED this 17 day of May, 2017.

  
HAYDEN HEAD  
SENIOR U.S. DISTRICT JUDGE