

United States District Court  
Southern District of Texas**ENTERED**

March 15, 2019

David J. Bradley, Clerk

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

BENJAMIN FRANKLIN,	§	
	§	
Plaintiff,	§	
VS.	§	CIVIL NO. 2:17-CV-370
	§	
BEEVILLE CITY, TEXAS, <i>et al</i> ,	§	
	§	
Defendants.	§	

**ORDER**

Before the Court are three Memorandums and Recommendations (“M&Rs”) of the Magistrate Judge to whom this case was referred. Dkt. Nos 55, 70 and 78. The Court has considered the following motions, responses and replies underlying the M&Rs at issue and the subsequent objections to each as follows:

1. Plaintiff Benjamin Franklin’s (“Franklin”) Motion for Prisoner Release Order, Dkt. No. 52; Franklin’s Declaration about the Ineffective T.D.C.J. Offender Grievance Operations, Dkt. No. 53; the May 23, 2018 M&R, Dkt. No. 55; and Franklin’s Objections, Dkt. No. 62.
2. Franklin’s Amended Complaint, Dkt. No. 65; the June 27, 2018 M&R, Dkt. No. 70; and Franklin’s Objections, Dkt. No. 73.<sup>1</sup>
3. Franklin’s Declaration for Entry of Default, Dkt. No. 75; the August 6, 2018 M&R, Dkt. No. 78; and Franklin’s Objections, Dkt. No. 83.

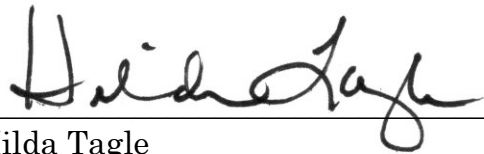
The Court reviews objected-to portions of the Magistrate Judge’s proposed findings and recommendations de novo. 28 U.S.C. § 636(b)(1). After independently reviewing the records and considering the applicable law, the Court hereby:

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<sup>1</sup> On August 23, 2018 Franklin filed subsequent objections to the June 27, 2018 M&R in the form of a motion titled Memorandum and Motion to Retain All Defendants and in Individual Plus Official Capacities, Dkt. No. 84. Because Franklin’s August 23, 2018 Objections were filed outside the 14-day window allowed by Fed. R. Civ. P. 72(b), the Court will not consider these objections.

1. **ADOPTS** the May 23, 2018 M&R, Dkt. No. 55; **OVERRULES** Franklin's objections, Dkt. No. 62; and **DENIES** Franklin's Motion for Prisoner Release Order, Dkt. No. 52.
2. **ADOPTS** the June 27, 2018 M&R, Dkt. No. 70;<sup>2</sup> **OVERRULES** Franklin's objections, Dkt. No. 73; and **STRIKES** Franklin's August 23, 2018 objections, Dkt. No. 84.
3. **ADOPTS** the August 6, 2018 M&R, Dkt. No. 78; **OVERRULES** Plaintiff's objections, Dkt. No. 83; and **DENIES** Plaintiff's Declaration for Entry of Default, Dkt. No. 75.

SIGNED this 14th day of March 2019.



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Hilda Tagle  
Senior United States District Judge

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<sup>2</sup> The June 27, 2018 M&R specifically recommends the following: (1) that the Court retain Plaintiff's deliberate indifference claims against Defendants Pendarvis and Humpkin with regard to the drinking water; (2) that Plaintiff's claims for money damages against all individual Defendants in their official capacities be dismissed as barred by the Eleventh Amendment; and (3) that Plaintiff's remaining claims against Defendants be dismissed with prejudice for failure to state a claim upon which relief can be granted and/or as frivolous pursuant to 28 U.S.C. §§ 1915(e)(2)(B), 1915A(b)(1). Dkt. No. 70.