

United States District Court  
Southern District of Texas

**ENTERED**

August 07, 2020

David J. Bradley, Clerk

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

BENJAMIN FRANKLIN,

Plaintiff,

VS.

BEEVILLE CITY, TEXAS, *et al*,

Defendants.

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CIVIL NO. 2:17-CV-370

**ORDER**

The Court is in receipt of the Magistrate Judge’s Memorandum and Recommendation, Dkt. No. 123. The Court is also in receipt of Plaintiff Benjamin Franklin’s (“Franklin”) objections to the M&R, Dkt. Nos. 125, 126, 127, 128.

Franklin’s civil rights action concerns alleged Eighth Amendment violations due to exposure to unsafe drinking water. Dkt. No. 123. On March 14, 2019, this Court adopted the Magistrate Judge’s recommendations and retained Franklin’s deliberate indifference claims against Defendants Gary Pendarvis (“Pendarivs”) and Bobby Lumpkin (“Lumpkin”) and dismissed all other defendants and claims. Dkt. Nos. 70, 100.

Pendarvis and Lumpkin moved for summary judgment and the Magistrate Judge recommends granting their motion as there is no genuine issue of material fact regarding deliberate indifference of a failure to provide drinkable water, Dkt. No. 123. The Magistrate Judge recommends finding that the summary judgment evidence shows Lumpkin did not participate in the water distribution decisions and that the uncontroverted evidence shows Pendarvis acted quickly and competently to the boil-water notice. *Id.* at 14, 16. Franklin objects on numerous grounds including judicial bias, other alleged harms, and his opposition to qualified immunity. Dkt. Nos. 125, 126, 127, 128.

The Court reviews objected-to portions of a Magistrate Judge’s proposed findings and recommendations de novo. 28 U.S.C. § 636(b)(1). But if the objections

are frivolous, conclusive or general in nature the court need not conduct a de novo review. *Battle v. United States Parole Comm'n*, 834 F.2d 419 (5th Cir. 1987).

The Court concludes Franklin's lengthy objections are frivolous, conclusive, and general. Franklins objections are therefore **OVERRULED**. Dkt. Nos. 125, 126, 127, 128.

After review of the record, the filings and relevant law, the Court **ADOPTS** the Memorandum and Recommendation, Dkt. No. 123, in its entirety. Accordingly, the Court **GRANTS** Defendants Pendarvis and Lumpkin's motion for summary judgment and **DISMISSES** Franklin's claims against them. Since all other Defendants have previously been dismissed from this case final judgment will enter separately.

SIGNED this <sup>8<sup>th</sup></sup> day of August, 2020.

  
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Hilda Tagle  
Senior United States District Judge