

United States District Court
Southern District of Texas

ENTERED

July 16, 2021

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

NAPTALI ARMANDO ORELLANA,

Plaintiff,

VS.

UNKNOWN PARTY,

Defendant.

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CIVIL ACTION NO. 2:21-CV-16

ORDER ADOPTING MEMORANDUM AND RECOMMENDATION

Before the Court is Magistrate Judge Julie K. Hampton’s Memorandum and Recommendation (M&R), entered on May 4, 2021 (D.E. 14). The M&R recommends that the Court dismiss Plaintiff’s case without prejudice for want of prosecution or failure to comply with a court order. *Id.* at 2. Specifically, Plaintiff failed to comply with Magistrate Judge Hampton’s order instructing Plaintiff to show cause within twenty days of April 7, 2021 why his lawsuit should not be dismissed for want of prosecution and instructing Plaintiff that he could show cause by “paying the filing fee or filing an IFP [*in forma pauperis*] application and a copy of his inmate trust fund account statement (or institutional equivalent) for the 6-month period immediately preceding the filing of the complaint.” *Id.* at 1–2.

The parties were provided proper notice of, and the opportunity to object to, the Magistrate Judge’s M&R. *See* 28 U.S.C. § 636(b)(1); FED. R. CIV. P. 72(b); General Order No. 2002-13. To date, no objection has been filed.¹ However, on June 28, 2021, more than

¹ When no timely objection has been filed, the district court need only determine whether

sixty days after the April 27, 2021 deadline, Plaintiff filed his prisoner trust fund account statement without the requisite *in forma pauperis* application and without any explanation for his delay. (D.E. 16). As such, Plaintiff has failed to show cause why he should not have his case dismissed for lack of prosecution pursuant to Federal Rule of Civil Procedure 41(b).

Having carefully reviewed the proposed findings and conclusions of the Magistrate Judge, the filings of the parties, the record, and the applicable law, and finding that the M&R is not clearly erroneous or contrary to law, the Court **ADOPTS** the M&R in its entirety. (D.E. 14). Accordingly, this action is **DISMISSED WITHOUT PREJUDICE** for Plaintiff's failure to prosecute his case or comply with a court order. FED. R. CIV. P. 41(b). Nothing in this order prevent Plaintiff from refileing his civil rights complaint and complying with the Magistrate Judge's instructions.

SO ORDERED.



DAVID S. MORALES
UNITED STATES DISTRICT JUDGE

Dated: Corpus Christi, Texas
July 15, 2021

the magistrate judge's memorandum and recommendation is clearly erroneous or contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989) (per curiam); *Powell v. Litton Loan Servicing, LP*, No. CIV. A. H-14-2700, 2015 WL 3823141, at *1 (S.D. Tex. June 18, 2015).