

United States District Court
Southern District of Texas

ENTERED

November 22, 2024

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

ALEX BERNARD JOHNSON,

Plaintiff,

VS.

PLACIDO SAMANIEGO, JR., *et al.*,

Defendants.

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CIVIL ACTION NO. 2:24-CV-00060

ORDER ADOPTING MEMORANDUM AND RECOMMENDATION

Pending before the Court is Plaintiff’s complaint (D.E. 1) for initial screening under the Prison Litigation Reform Act. *See* 42 U.S.C. § 1997e(c); 28 U.S.C. §§1915(e)(2), 1915A. On October 8, 2024, United States Magistrate Judge Jason B. Libby issued a Memorandum and Recommendation (M&R, D.E. 21), recommending that Plaintiff’s case be dismissed and counted as a strike. The M&R was placed in the mail to Plaintiff on that date. Docket Sheet notation of Clerk of Court of October 8, 2024.

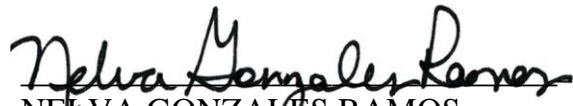
Plaintiff received notice of the M&R in the mail as of October 15, 2024. D.E. 22.¹ Objections are due within fourteen (14) days after service of the M&R. Fed. R. Civ. P. 72(b)(2). Plaintiff filed his objections (D.E. 23) on November 1, 2024, by placing them into the prison mail system on that date. D.E. 23, p. 3. His objections are not timely and may be overruled on that basis, alone.

¹ *See* https://tools.usps.com/go/TrackConfirmAction?qt_c_tLabels1=70033110000208700842.

Nonetheless, the Court has reviewed the objections and finds that they simply rehash the arguments that the Magistrate Judge properly rejected, without pointing out any specific error in the M&R's analysis. An objection must point out with particularity the alleged error in the Magistrate Judge's analysis. Otherwise, it does not constitute a proper objection and will not be considered. Fed. R. Civ. P. 72(b)(2); *Malacara v. Garber*, 353 F.3d 393, 405 (5th Cir. 2003); *Edmond v. Collins*, 8 F.3d 290, 293 n.7 (5th Cir. 1993) (finding that right to de novo review is not invoked when a petitioner merely re-urges arguments contained in the original petition).

Having reviewed the findings of fact, conclusions of law, and recommendations set forth in the Magistrate Judge's Memorandum and Recommendation, as well as Plaintiff's objections, and all other relevant documents in the record, and having made a de novo disposition of the portions of the Magistrate Judge's Memorandum and Recommendation to which objections were specifically directed, the Court **OVERRULES** Plaintiff's objections and **ADOPTS** as its own the findings and conclusions of the Magistrate Judge. Accordingly, this action is **DISMISSED WITH PREJUDICE** and the Court **ORDERS** that this case counts as a "**STRIKE**" for purposes of 28 U.S.C. § 1915(g). The Clerk of Court is **INSTRUCTED** to send notice of this dismissal to the Manager of the Three Strikes List for the Southern District of Texas at Three_Strikes@txs.uscourts.gov.

ORDERED on November 22, 2024.


NELVA GONZALES RAMOS
UNITED STATES DISTRICT JUDGE