

United States District Court
Southern District of Texas

ENTERED

June 05, 2024

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

DWAYNE RAYSHAUN	§	CIVIL ACTION NO
WILSON,	§	4:24-cv-01247
Plaintiff,	§	
	§	
	§	
vs.	§	JUDGE CHARLES ESKRIDGE
	§	
	§	
2151 KIRKWOOD LLC,	§	
Defendant.	§	

**ORDER ADOPTING
MEMORANDUM AND RECOMMENDATION**

Dwayne Rayshaun Wilson, proceeding *pro se* and *in forma pauperis*, removed this case from the First Court of Appeals. Dkt 1.

Pending is a Memorandum and Recommendation by Magistrate Judge Christina A. Bryan, recommending that this case be remanded to state court for lack of subject-matter jurisdiction. Dkt 8. Also pending are objections filed by Wilson. Dkt 9.

The district court reviews *de novo* those conclusions of a magistrate judge to which a party has specifically objected. See FRCP 72(b)(3) & 28 USC §636(b)(1)(C); see also *United States v Wilson*, 864 F2d 1219, 1221 (5th Cir 1989, *per curiam*). The district court may accept any other portions to which there's no objection if satisfied that no clear error appears on the face of the record. See *Guillory v PPG Industries Inc*, 434 F3d 303, 308 (5th Cir 2005), citing *Douglass v United Services Automobile Association*, 79 F3d 1415, 1430 (5th Cir 1996, *en banc*); see also FRCP 72(b) advisory committee note (1983).

Upon *de novo* review and determination, Wilson's objections lack merit. The burden of establishing that federal jurisdiction exists in a case "rests on the party seeking the federal forum." *Howery v Allstate Insurance Co*, 243 F3d 912, 916 (5th Cir 2001). Wilson has failed to meet that burden here. The Memorandum and Recommendation clearly details the pertinent facts and correctly applies controlling law.

No clear error otherwise appears upon review and consideration of the Memorandum and Recommendation, the record, and the applicable law.


The objections by Wilson to the Memorandum and Recommendation of the Magistrate Judge are OVERRULED. Dkt 9.

The Memorandum and Recommendation of the Magistrate Judge is ADOPTED as the Memorandum and Order of this Court. Dkt 8.

This case is REMANDED to the First Court of Appeals.

SO ORDERED.

Signed on June 5, 2024, at Houston, Texas.


Hon. Charles Eskridge
United States District Judge