

United States District Court
Southern District of Texas

ENTERED

March 08, 2017

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
MCALLEN DIVISION

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VS.

CIVIL ACTION NO. 7:13-CV-627

BOARD OF PARDONS & PAROLES

ORDER ADOPTING REPORT AND RECOMMENDATION

Pending before the Court is Plaintiff's claim for injunctive relief under 42 U.S.C. § 1983, on the basis that Defendant's implementation of Texas's discretionary parole system violates the Eighth Amendment's prohibition against cruel and unusual punishment. On June 3, 2016, the Magistrate Court issued the Report and Recommendation, recommending that Plaintiff's § 1983 claim be dismissed without prejudice as moot, and that the Motion for Class Certification be denied as moot. The time for filing objections has passed, and no objections have been filed.

Pursuant to Federal Rule of Civil Procedure 72(b), the Court has reviewed the Report and Recommendation for clear error.¹ Finding no clear error, the Court adopts the Report and Recommendation in its entirety. Accordingly, Plaintiff's § 1983 claim is **DISMISSED** without prejudice as moot. Plaintiff's Motion for Class Certification (Dkt. Entry No. 1 at 8-9) is **DENIED** as moot.

¹As noted by the Fifth Circuit, "[t]he advisory committee's note to Rule 72(b) states that, '[w]hen no timely objection is filed, the [district] court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.'" *Douglas v. United Services Auto. Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996)(quoting Fed. R. Civ. P.72(b) advisory committee's note (1983)) *superseded by statute on other grounds* by 28 U.S.C. § 636(b)(1), *as stated in ACS Recovery Servs., Inc v. Griffin*, No. 11-40446, 2012 WL 1071216, at *7 n.5 (5th Cir. April 2, 2012).

SO ORDERED this 8th day of March, 2017, at McAllen, Texas.

A handwritten signature in black ink that reads "Randy Crane". The signature is written in a cursive style with a horizontal line underneath it.

Randy Crane
United States District Judge