

United States District Court
Southern District of Texas

ENTERED

March 27, 2024

Nathan Ochsner, Clerk

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

KYLE TYSON CHANEY,

Plaintiff,

VS.

J.E. EDDIE GUERRA, et al.,

Defendants.

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CIVIL ACTION NO. 7:22-CV-415

ORDER ADOPTING REPORT AND RECOMMENDATION

Before the Court is Plaintiff Kyle Tyson Chaney’s prisoner civil rights complaint¹ which had been referred to the Magistrate Court for a report and recommendation.

Previously, the Magistrate Court issued a Report and Recommendation, recommending that the Court deny Plaintiff’s application to proceed without prepayment of fees, but that Plaintiff be given thirty (30) days to pay the filing fee.² The Court adopted the Report and Recommendation on January 8, 2024.³ Subsequently, Plaintiff moved for an extension of time to submit a certified copy of his prison trust fund account⁴ which the Magistrate Court granted.⁵ After that deadline passed, the Magistrate Court entered the instant Report and Recommendation recommending dismissal for failure to prosecute. The time for filing objections has passed and no objections have been filed.

Instead, Plaintiff has filed a “Motion to Pause” until his “release of incarceration [sic] and allow [him] to continue prosecution, rather than dismiss the case entirely.”⁶ Plaintiff has been


¹ Dkt. No. 1.
² Dkt. No. 17.
³ Dkt. No. 18.
⁴ Dkt. No. 19.
⁵ Dkt. No. 20.
⁶ Dkt. No. 22 at 1.

given ample opportunity to submit the requested documentation and to prosecute this case and has failed to do so. Accordingly, the motion to pause is hereby **DENIED**.

Pursuant to Federal Rule of Civil Procedure 72(b), the Court has reviewed the Report and Recommendation for clear error.⁷ Finding no clear error, the Court adopts the Report and Recommendation in its entirety. Accordingly, Plaintiff's civil rights action is **DISMISSED** with prejudice for failure to prosecute and this case is **CLOSED**.

IT IS SO ORDERED.

DONE at McAllen, Texas, this 27th day of March 2024.



Micaela Alvarez
Senior United States District Judge

⁷ As 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 States Servs. 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).