

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION

Oliver Mason,
Plaintiff

v.

Mrs. FNU Kent,
Defendant

CASE NO. 6-20-CV-00691-ADA

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**ORDER ADOPTING MAGISTRATE'S REPORT AND RECOMMENDATION AND
DISMISSING PLAINTIFF'S COMPLAINT WITH PREJUDICE**

Before the Court is the Report and Recommendation of United States Magistrate Judge Jeffrey C. Manske. ECF No. 12. The report recommends that Plaintiff's Amended Complaint be dismissed. The action was referred to Judge Manske for findings and recommendations pursuant to 28 U.S.C. § 636(b)(1)(B), Federal Rule of Civil Procedure 72, and Rule 1(d) of Appendix C of the Local Rules of the United States District Court for the Western District of Texas. The Report and Recommendation was filed on March 11, 2021.

A party may file specific, written objections to the proposed findings and recommendations of the Magistrate Judge within fourteen days after being served with a copy of the report and recommendation, thereby securing *de novo* review by the district court. 28 U.S.C. § 636(b); Fed. R. Civ. P. 72(b). A party's failure to timely file written objections to the proposed findings, conclusions, and recommendation in a report and recommendation bars that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. *See Douglas v. United Service Auto Ass'n*, 79 F.3d 1415, 1428–29 (5th Cir. 1996) (*en banc*).

Plaintiff did not file objections to the Report and Recommendation. Plaintiff instead filed an illegible advisory to the Court (ECF No. 13) on June 16, 2021, and later emailed the Court an incomprehensible message on December 8, 2021. The email stated the following:

Think you I done this are thy stole from me you have facts don't still from me to I just want email I sent to you you can have the rest pls to try the case thinks for the help mr Mason

Having carefully reviewed the Magistrate Judge's Report and Recommendation, the Plaintiff's Advisory to the Court, the Plaintiff's subsequent email, and this case file, the Court agrees with the Magistrate's Report and Recommendation. Plaintiff has done nothing to adequately amend the Complaint, despite several orders and opportunities to do so.

IT IS THEREFORE ORDERED that the Report and Recommendation of the United States Magistrate Judge, (ECF No. 12), filed in this cause is **ACCEPTED AND ADOPTED** by the Court.

IT IS FURTHER ORDERED that Defendant's Amended Complaint and Advisory to the Court, ECF Nos. 11, 13, are **DISMISSED WITH PREJUDICE**.

IT IS FINALLY ORDERED that this case is **CLOSED**.

SIGNED this 9th day of December, 2021.



ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION

OLIVER MASON,
Plaintiff,

v.

MRS. FNU KENT,
Defendant.

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C.A. No. 6:20-cv-00691-ADA-JCM

REPORT AND RECOMMENDATION OF
THE UNITED STATES MAGISTRATE JUDGE

**TO: THE HONORABLE ALAN D ALBRIGHT,
UNITED STATES DISTRICT JUDGE**

This Report and Recommendation is submitted to the Court pursuant to 28 U.S.C. § 636(b)(1)(C), Fed. R. Civ. P. 72(b), and Rules 1(f) and 4(b) of Appendix C of the Local Rules of the United States District Court for the Western District of Texas, Local Rules for the Assignment of Duties to United States Magistrate Judges. This case is before the Court on its own Motion. Plaintiff, proceeding pro se, filed a handwritten Complaint and several Motions that he has termed “Motions to Serve.” *See* ECF Nos. 1, 6-8.¹ Plaintiff also filed an additional indecipherable document that has been docketed as a Supplement to his Complaint. *See* ECF No. 4. Due to the illegible and incoherent nature of Plaintiff’s pleadings, the Court ordered Plaintiff to amend his Complaint or face dismissal. *See* January 26, 2021 Order.

Following this Order, Plaintiff submitted another illegible and incoherent handwritten document (*see* ECF No. 10) and a typewritten Amended Complaint. *See* Pl.’s Am. Compl., ECF No. 11. Plaintiff’s Amended Complaint reads as follows:

¹The Court denied all three of Plaintiff’s “Motions to Serve” via Text Order on January 22, 2021. *See* January 22, 2021 Text Orders.

FILED

February 02, 2021

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS

BY: lad DEPUTY

Oliver Charles mason jr 406 nloop121 unitb belton tx 76513-0001

MRS. FNU KENT WHASHINTION DC

JURISDICTIONPLEA
what was took from me

I was doing business as a writer . SHE made me file out from on some of everything. WHO I wrote with and she made pay tax out of my on pocket and check they since to me. She made me paid income . WHEN I SUPPOSE PAY SO MUCH PERCENT.

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HEAR WHAT SHE OWE ME 900.Qillion EUROS TWO TIMES THE SAME 900.Qillion dollars 900.Qillion.dollarsbitconbank. 500.Zillion dollars Euros TWO TIMES 500.Zillion dollars. 500.Zillion dollars Bitcon Bank. 417 Trillion dollars EUROS . 417 Trillion dollars THREE TIMES. BITCONBANK 417 Trillion dollars. PLUS 350 .billion dollars. 125.million dollars 10 TIMES .1.2 Million Dollars 27 TIMES. 74 ALBUMS BANK DEBIT CARDS . 57 ALUMBS BUSINESS I OWN AND INVESTMENT IN.

Pl.'s Am. Compl. at 1.

Federal Rule of Civil Procedure 8(a) sets out the requirements for a valid complaint: (1) “a short and plain statement of the grounds for the court’s jurisdiction...”; (2) “a short and plain statement of the claim showing that [Plaintiff] is entitled to relief”; and (3) “a demand for the relief sought...”. Fed. R. Civ. P. 8(a). The Court cannot coherently decipher any of these requirements given the current form of Plaintiff’s Complaint. When a court cannot find one of the Rule 8(a) requirements due to a complaint’s illegibility or incomprehensibility, it may dismiss the complaint. *See, e.g., Scibelli v. Lebanon County*, 219 F. App’x 221, 222 (3rd Cir. 2007).

Before a court may dismiss an illegible or incoherent complaint pursuant to Rule 8(a), it must first give the plaintiff an opportunity to amend the defective pleading. *See Moss v. U.S.*, 329 F. App'x 335, 336 (3rd Cir. 2009) (citing *Simmons v. Abruzzo*, 49 F.3d 83, 86–87 (2d Cir.1995)). Plaintiff has been provided with this opportunity but has failed to articulate a cognizable or coherent cause of action.

Accordingly, the Court **RECOMMENDS** that Plaintiff's Amended Complaint be **DISMISSED**. The parties may wish to file objections to this Report and Recommendation. Parties filing objections must specifically identify those findings or recommendations to which they object. The District Court need not consider frivolous, conclusive, or general objections. See *Battle v. U.S. Parole Comm'n*, 834 F.2d 419, 421 (5th Cir. 1987).

A party's failure to file written objections to the proposed findings and recommendations contained in this Report within fourteen (14) days after the party is served with a copy of the Report shall bar that party from de novo review by the District Court of the proposed findings and recommendations in the Report. See 28 U.S.C. § 636(b)(1)(C); *Thomas v Arn*, 474 U.S. 140, 150–53 (1985); *Douglass v. United Servs. Auto. Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (en banc). Except upon grounds of plain error, failing to object shall further bar the party from appellate review of unobjected-to proposed factual findings and legal conclusions accepted by the District Court. See 28 U.S.C. § 636(b)(1)(C); *Thomas*, 474 U.S. at 150–53; *Douglass*, 79 F.3d at 1415.

SIGNED this 11th day of March, 2021.



JEFFREY C. MANSKA
UNITED STATES MAGISTRATE JUDGE

United States Court of Appeals for the Fifth Circuit

No. 22-50107

United States Court of Appeals

Fifth Circuit

FILED

August 29, 2022

OLIVER MASON,

Lyle W. Cayce
Clerk

Plaintiff—Appellant,

versus

MRS. FNU KENT, I.R.S.,

Defendant—Appellee.

Appeal from the United States District Court
for the Western District of Texas
USDC No. 6:20-CV-691

CLERK'S OFFICE:

Under 5TH CIR. R. 42.3, the appeal is dismissed as of August 29, 2022, for want of prosecution. The appellant failed to timely file appellant's brief.



Certified as a true copy and issued
as the mandate on Aug 29, 2022

Attest:

Lyle W. Cayce
Clerk, U.S. Court of Appeals, Fifth Circuit

22-50107

LYLE W. CAYCE
Clerk of the United States Court
of Appeals for the Fifth Circuit

Roeshawn Johnson

By: _____
Roeshawn Johnson, Deputy Clerk

ENTERED AT THE DIRECTION OF THE COURT