

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 17-40271

DARRELL J. HARPER,

Plaintiff - Appellant

v.

JIM CROW,

Defendant - Appellee



A True Copy

Certified order issued Apr 26, 2017

Lyle W. Cayce

Clerk, U.S. Court of Appeals, Fifth Circuit

Appeal from the United States District Court for the
Eastern District of Texas, Tyler

CLERK'S OFFICE:

Under 5TH CIR. R. 42.3, the appeal is dismissed as of April 26, 2017, for want of prosecution. The appellant failed to timely comply with the court's notice of March 29, 2017.

LYLE W. CAYCE

Clerk of the United States Court
of Appeals for the Fifth Circuit

Angelique D. Batiste

By: _____
Angelique D. Batiste, Deputy Clerk

ENTERED AT THE DIRECTION OF THE COURT

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

DARRELL J. HARPER #1957729 §
v. § CIVIL ACTION NO. 6:17cv8
JIM CROW §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Plaintiff Darrell Harper, proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged violations of his constitutional rights. This Court ordered that the case be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Harper states that he is bringing suit against “Defendant State of Texas Jim Crow” for violating “the spirit of the United States Constitution” and knowingly creating a dangerous environment, the nature of which is not specified. For relief, Harper states that he “demands satisfaction.”

After review of the pleadings, the Magistrate Judge issued a Report recommending that the lawsuit be dismissed as barred by sanctions previously imposed upon Harper by the Fifth Circuit Court of Appeals. Harper filed objections to this Report asserting that although federal law has jurisdiction over all 50 states, sanctions have never been imposed upon the Defendant State of Texas Jim Crow, whose laws have discriminated against Harper because he filed discrimination complaints. These laws are prohibited by the Civil Rights Act of 1964 and the First Amendment. Harper’s objections are patently without merit.

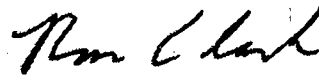
The Court has conducted a careful *de novo* review of those portions of the Magistrate Judge's proposed findings and recommendations to which the Plaintiff objected. See 28 U.S.C. §636(b)(1) (District Judge shall "make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made.") Upon such *de novo* review, the Court has determined that the Report of the Magistrate Judge is correct and the Plaintiff's objections are without merit. It is accordingly

ORDERED that the Plaintiff's objections are overruled and the Report of the Magistrate Judge (docket no. 3) is **ADOPTED** as the opinion of the District Court. It is further

ORDERED that the above-styled civil action is **DISMISSED WITH PREJUDICE** as barred by sanctions previously imposed upon Harper by the Fifth Circuit Court of Appeals. It is further

ORDERED that all motions pending in this action are hereby **DENIED**.

So **ORDERED** and **SIGNED** this 6 day of March, 2017.



Ron Clark, United States District Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

 DARRELL J. HARPER

§

v.

§ CIVIL ACTION NO. 6:17cv8

JIM CROW

§

REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE

The Plaintiff Darrell Harper, an inmate of the Texas Department of Criminal Justice, Correctional Institutions Division, filed this civil rights lawsuit under 42 U.S.C. §1983 complaining of alleged deprivations of his constitutional rights. The lawsuit has been referred to the undersigned United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges. The sole named Defendant is identified as “Jim Crow, State Actor, State Capitol.”

Harper states that he is bringing suit against “Defendant State of Texas Jim Crow” for violating “the spirit of the United States Constitution” and knowingly creating a dangerous environment, the nature of which is not specified. For relief, Harper states that he “demands satisfaction.”

The Plaintiff Darrell Harper is well known as a malicious litigant. Court records show that he has filed over 100 lawsuits in the United States District Courts in the State of Texas, many of which have been dismissed as frivolous. He has been repeatedly sanctioned for this torrent of frivolous litigation. On June 19, 2008, in *Harper v. City of Houston*, 282 Fed.Appx. 351, 2008 WL 2468471 (5th Cir., June 19, 2008), the Fifth Circuit stated as follows:

This court previously sanctioned Harper for the filing of frivolous appeals and ordered him to pay \$100.00. *See Harper v. Atlas*, no. 05-20856 (5th Cir., August 28, 2006) (unpublished). Undaunted by the prior sanction, Harper has filed yet another frivolous appeal. We now order Harper to pay \$300.00 as a sanction to the clerk of

this court. Harper is barred from filing any pleading in this court or in any court subject to this court's jurisdiction until the total amount of the sanction imposed on him is paid in full. Harper is also warned that any future meritless filings in this court or any court subject to this court's jurisdiction will subject him to additional sanctions, as will the failure to withdraw any pending matters that are frivolous.

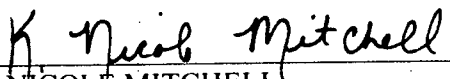
Harper does not show that he has satisfied the sanctions imposed in *Harper v. City of Houston* or in *Harper v. Atlas*, and review of the dockets in those cases confirms that Harper has not done so. In light of these sanctions, Harper cannot pursue his lawsuit. See, e.g., *Harper v. United States*, civil action no. 4:11cv549 (S.D.Tex., February 23, 2011) (dismissing lawsuit because of failure to satisfy sanctions in *Harper v. Atlas*).

RECOMMENDATION

It is accordingly recommended that the above-styled civil action be dismissed with prejudice as frivolous and as barred by the sanctions imposed by the Fifth Circuit Court of Appeals.

A party's failure to file objections to the findings, conclusions, and recommendations contained in this Report within 14 days after service with a copy thereof shall bar that party from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to proposed factual findings and legal conclusions accepted and adopted by the district court. *Douglass v. United Services Automobile Association*, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

So ORDERED and SIGNED this 17th day of January, 2017.


K. NICOLE MITCHELL
UNITED STATES MAGISTRATE JUDGE

**Additional material
from this filing is
available in the
Clerk's Office.**