

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

FILED

2007 JUN 25 PM 3:57

CLERK US DISTRICT COURT  
WESTERN DISTRICT OF TEXAS

BY

DEPUTY

RAUL MEZA,	§
PLAINTIFF,	§
	§
V.	§
	§
INDIVIDUAL PAROLE OFFICERS, IN	§
THEIR INDIVIDUAL AND OFFICIAL	§
CAPACITIES, BRAD LIVINGSTON,	§
EXECUTIVE DIRECTOR OF THE TEXAS	§
DEPARTMENT OF CRIMINAL JUSTICE	§
IN HIS OFFICIAL CAPACITY, AND	§
BRIAN COLLIER, DIRECTOR OF THE	§
TEXAS DEPARTMENT OF CRIMINAL	§
JUSTICE PAROLE DIVISION, IN HIS	§
OFFICIAL AND INDIVIDUAL	§
CAPACITIES,	§
DEFENDANTS.	§

CAUSE NO. A-05-CA-1008-LY

**ORDER ON REPORT AND RECOMMENDATION**

Before the Court are Defendant Collier's Third Motion to Dismiss filed May 3, 2007 (Clerk's Document 162) and Plaintiff Meza's response (Clerk's Document 167); Defendant Owens's Motion to Dismiss filed April 5, 2007 (Clerk's Document 130) and Meza's response filed April 12, 2007 (Clerk's Document 132); and Defendants Aliseda, Davis, Denoyelles, Aycock, Garcia, and Gonzales's ("Texas Board of Pardons and Paroles Defendants") Motion to Dismiss filed April 23, 2007 (Clerk's Document 150) and Meza's response filed April 23, 2007 (Clerk's Document 151).

The District Court referred the motions to the Magistrate Judge for report and recommendation pursuant to 28 U.S.C. § 636(b)(1), Federal Rule of Civil Procedure 72, and Rule 1 of Appendix C of the Local Rules of the United States District Court for the Western District of Texas. After considering the parties' pleadings and other filings, the relevant case law, and the case file, the Magistrate Court signed a Report and Recommendation on June 5, 2007 (Clerk's Document 207),

recommending that this Court grant Owens's and Aliseda, Davis, Denoyelles, Aycock, Garcia, and Gonzales's ("Texas Board of Pardons and Paroles Defendants") motions to dismiss as to Meza's claims under the Religious Land Use and Institutionalized Persons Act ("RLUIPA" claims), and that the motions be denied in all other respects. The Magistrate Judge further recommended that Collier's motion to dismiss be granted as to Meza's RLUIPA claims and denied in all other respects.

A party may serve and file specific, written objections to the proposed findings and recommendations of the Magistrate Judge within ten (10) days after being served with a copy of the Report and Recommendation, and thereby secure a *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 recommendations 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 Douglass v. United Services Auto Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (en banc).

The parties in this case were properly notified of the consequences of a failure to file objections, which were due June 20, 2007. Meza did not file objections to the findings of fact and conclusions of law in the report and recommendation; rather, Meza states that he is unopposed to the dismissal of his RLUIPA's claims in light of the Magistrate Judge's recommendation. Collier has also failed to timely file objections to the Report and Recommendation. Having reviewed the Report and Recommendation along with the record in this case and finding no plain error, the Court accepts the Report and Recommendation for the reasons stated therein as to dismissal of Meza's RLUIPA claims and denial in part of Collier's motion to dismiss.

Texas Board of Pardons and Paroles Defendants timely filed objections to the Magistrate's

Judge's Report and Recommendations (Clerk's Documents 212). After a *de novo* review of the record as to the issues raised by the Texas Board of Pardons and Paroles Defendants, *see* Fed. R. Civ. P. 72(a), and having considered the objections and the applicable law, this Court is of the opinion that the Report and Recommendation should be approved and accepted for the reasons stated therein as to denial in part of Owens's and Aliseda, Davis, Denoyelles, Aycock, Garcia, and Gonzales's motions to dismiss.

**IT IS THEREFORE ORDERED** that Owens, Aliseda, Davis, Denoyelles, Aycock, Garcia, and Gonzales's Objections to the Report and Recommendation of the United Magistrate Judge are **OVERRULED**.

**IT IS FURTHER ORDERED** that the United States Magistrate Judge's Report and Recommendation (Clerk's Document 207) is hereby **APPROVED AND ACCEPTED**.

**IT IS ORDERED** that Collier's Third Motion to Dismiss (Clerk's Document 162) is **GRANTED IN PART** as to Meza's RLUIPA claims. In all other respects, the motion is denied.

**IT IS FURTHER ORDERED** that Owens's Motion to Dismiss (Clerk's Document 130) is **GRANTED IN PART** as to Meza's RLUIPA claims. In all other respects, the motion is denied.

**IT IS FURTHER ORDERED** that Defendants Aliseda, Davis, Denoyelles, Aycock, Garcia, and Gonzales's Motion to Dismiss (Clerk's Document 150) is **GRANTED IN PART** as to Meza's RLUIPA claims. In all other respects, the motion is denied.

SIGNED this 25<sup>th</sup> day of June, 2007.

  
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LEE YEAKEL  
UNITED STATES DISTRICT JUDGE