

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

**FILED**  
 FEB 15 2022  
 CLERK, U.S. DISTRICT COURT  
 WESTERN DISTRICT OF TEXAS  
 BY [Signature] DEPUTY

B.W., A MINOR, BY NEXT FRIENDS §  
 M.W. AND B.W., §  
 PLAINTIFF, §

V. §

CAUSE NO. A-20-CV-00750-LY

AUSTIN INDEPENDENT SCHOOL §  
 DISTRICT, §  
 DEFENDANT. §

**ORDER ON REPORT AND RECOMMENDATION  
 OF THE UNITED STATES MAGISTRATE JUDGE**

Before the court in the above-styled and numbered action, the court referred to the United States Magistrate Judge for a report and recommendation Defendant the Austin Independent School District's ("District") Defendant's Motion to Dismiss Plaintiff's Fourth Amended Complaint and all related briefing (Docs. ##42, 48, 50, 51). The Report and Recommendation of the United States Magistrate Judge was filed January 28, 2022 (Doc. #58). The magistrate judge recommends that the court grant the District's motion and that all of B.W.'s claims be dismissed.

A party may serve and file specific written objections to the proposed findings and recommendations of a magistrate judge within fourteen days after being served with a copy of the report and recommendation and thereby secure *de novo* review by the district court. *See* 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 Douglass v. United Services Auto Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (en banc).

The parties received the report and recommendation on January 28 2022, and objections if any, were due to be filed on or before February 11, 2022. B.W. filed objections to the report and recommendation on February 8, 2022 (Doc. #59). In light of the objections, the court has undertaken a *de novo* review of the entire case file.

Having considered the motion, response, objections, the case file, and the applicable law, the court will overrule the objections and will accept and adopt the report and recommendation for substantially the reasons stated therein.

**IT IS ORDERED** that B.W.'s Objections to the Magistrate Judge's Report and Recommendations filed February 8, 2022 (Doc. #59) are **OVERRULED**.

**IT IS FURTHER ORDERED** that for substantially the reasons stated therein the Report and Recommendation of the United States Magistrate Judge filed January 28, 2022 (Doc. #58) is **ACCEPTED AND ADOPTED**.

**IT IS FURTHER ORDERED** that the District's Defendant's Motion to Dismiss Plaintiff's Fourth Amended Complaint filed May 28, 2021 (Doc. #42) is **GRANTED**.

**IT IS FURTHER ORDERED** that all claims alleged by Plaintiff B.W., a minor, by next friends M.W. and B.W., against Defendant Austin Independent School District are **DISMISSED WITH PREJUDICE** for failure to state a claim for which relief may be granted. *See* Fed. R. Civ. P. 12(b)(6).

**IT IS FURTHER ORDERED** that in light of these rulings, the parties' Joint Motion to Abate Scheduling Order Deadlines filed January 19, 2022 (Doc. #57) is **DISMISSED**.

SIGNED this 15<sup>th</sup> day of February, 2022.



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LEE YEAKEL  
UNITED STATES DISTRICT JUDGE