

**UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF
TEXAS, HOUSTON DIVISION**

Trenton Kirksey v. National Multiple Sclerosis Society

Kirksey · No. 4:24-cv-00871 · Decided March 13, 2026

OPINION

Kirksey

PER CURIAM.

March 14, 2026 Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

TRENTON KIRKSEY, § CIVIL ACTION NUMBER

Plaintiff, § 4:24-cv-00871 § § versus § JUDGE CHARLES ESKRIDGE § §

NATIONAL MULTIPLE §

SCLEROSIS SOCIETY, §

Defendant. §

ORDER ADOPTING

MEMORANDUM AND RECOMMENDATION

Plaintiff Trenton Kirksey proceeds here pro se. He sued Defendant National Multiple Sclerosis Society for racial discrimination, retaliation, and civil conspiracy. Dkt 28 at ¶¶42–62 (amended complaint). His civil conspiracy claim was dismissed by prior order. See Dkt 41 at 2. The matter was referred for disposition to Magistrate Judge Yvonne Ho. Dkt 27. Plaintiff moved for partial summary judgment on his retaliation claims. Dkt 57. Defendant also moved for summary judgment, seeking dismissal of all claims. Dkt 77. Pending is a Memorandum and Recommendation by Judge Ho recommending that Defendant’s motion for summary judgment be granted and all of Plaintiff’s claims be dismissed with prejudice. Dkt 97 at 29. Accordingly, she further recommended that Plaintiff’s motion for partial summary judgment be denied. Ibid. The district court reviews de novo those conclusions of a magistrate judge to which a party has specifically objected. See FRCP 72(b)(3) & 28 USC § 636(b)(1)(C); see also *United States v Wilson*, 864 F2d 1219, 1221 (5th Cir 1989, per curiam). The district court may accept any other portions to which there’s no objection if satisfied that no clear error appears on the face of the record. See *Guillory v PPG Industries Inc*, 434 F3d 303, 308 (5th Cir 2005), citing *Douglass v United Services Automobile Association*, 79 F3d 1415, 1430 (5th Cir 1996, en banc); see also FRCP 72(b) advisory committee note (1983). Plaintiff filed objections. Dkt 98. He claims that the Memorandum and Recommendation erred by, among other things, deeming him to have admitted

key facts when failing to respond to discovery requests. See *id.* at 4. Upon de novo review and determination, Plaintiff's objections lack merit. The Magistrate Judge correctly found that Plaintiff's failure to respond to Defendant's requests for admission "conclusively established" the facts as admitted under Federal Rule of Civil Procedure 36(b). See Dkt 97 at 10; see also Dkt 77-1 at 5-14 (requests for admission). Such admissions "cannot be overcome at the summary judgment stage by contradictory affidavit testimony or other evidence in the summary judgment record." *Amador v. Wolfe*, 2021 WL 3889305, *2 (5th Cir.), quoting *In re Carney*, 258 F.3d 415, 420 (5th Cir. 2001). Putative evidence that Plaintiff seeks to present in his objections is thus properly disregarded. The objections otherwise fail to show Plaintiff exhausted administrative remedies, presented direct evidence of discrimination, or made a prima facie case of discrimination or retaliation. The objections by Plaintiff Trenton Kirksey to the Memorandum and Recommendation of the Magistrate Judge are **OVERRULED**. Dkt 98. No clear error otherwise appears upon review and consideration of the Memorandum and Recommendation, the record, and the applicable law. The Memorandum and Recommendation of the Magistrate Judge is **ADOPTED** as the Memorandum and Order of this Court. Dkt 97. The motion by Defendant National Multiple Sclerosis Society for summary judgment is **GRANTED**. Dkt 77. The motion by Plaintiff Trenton Kirksey for partial summary judgment is **DENIED**. Dkt 57. A final judgment will enter separately. **SO ORDERED**. Signed on March 13, 2026, at Houston, Texas. *CA 1:21-cv-00001-Charles v. United States District Judge*