

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

ROY WILSON §
v. § CIVIL ACTION NO. 9:11cv48
WARDEN JANIE COCKRELL §

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

The Petitioner Roy Wilson, proceeding *pro se*, filed this application for the writ of habeas corpus under 28 U.S.C. §2254 complaining of the legality of disciplinary action taken against him during his confinement in TDCJ. This Court ordered that the matter 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.

On April 4, 2011, the Magistrate Judge ordered Wilson to pay the filing fee of \$5.00, based upon a review of his application for leave to proceed *in forma pauperis* and the attached data sheet. Wilson received a copy of this order on April 11, 2011, but to date has not complied, nor has he responded in any way.

On May 12, 2011, the Magistrate Judge issued a Report recommending that the petition be dismissed without prejudice for failure to prosecute or to obey an order of the Court. Rule 41(b), Fed. R. Civ. P. Wilson received a copy of this Report on May 17, 2011, but filed no objections thereto; accordingly, he is barred 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 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*).

The Court has carefully reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled application for the writ of habeas corpus be and hereby is DISMISSED without prejudice. It is further

ORDERED that the Petitioner Roy Wilson is hereby DENIED a certificate of appealability *sua sponte*, with the denial of this certificate relating solely to an appeal of this case; the denial of this certificate should not affect Wilson's right to refile his petition should he choose to do so. Finally, it is

ORDERED that any and all motions which may be pending in this civil action are hereby DENIED.

So **ORDERED** and **SIGNED** this **21** day of **June, 2011**.



Ron Clark, United States District Judge