

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

MELVIN LEE DAVIS

PETITIONER

v.

CAUSE NO. 1:15CV147-LG-RHW

**JACQUELYN BANKS and
MARK R. HERRING**

RESPONDENTS

ORDER ADOPTING FINDINGS OF FACT AND RECOMMENDATION

This cause comes before the Court on the [25] Proposed Findings of Fact and Recommendation of United States Magistrate Judge Robert H. Walker. On May 4, 2015, Petitioner Melvin Lee Davis filed a Petition for Writ of Habeas Corpus. Respondents Jacquelyn Banks and Mark R. Herring have both moved to dismiss the Petition.

On January 26, 2016, Magistrate Judge Walker recommended that this Court grant the Motions to Dismiss and dismiss the Petition “without prejudice for failure to exhaust state remedies.” (Proposed Findings and Fact and Recommendation 4-5, ECF No. 25). To date, Petitioner Davis has not filed an objection to the Report and Recommendation, and the time for doing so has expired.

Where no party has objected to the Magistrate Judge’s Findings of Fact and Recommendation, the Court need not conduct a de novo review of it. *See* 28 U.S.C. § 636(b)(1) (“A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made.”). In such cases, the Court need only review the Findings of Fact and Recommendation and determine whether it is either clearly erroneous or

contrary to law. *See, e.g., United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989).

Having conducted the required review, the Court is of the opinion that Magistrate Judge Walker's Proposed Findings of Fact and Recommendation is neither clearly erroneous nor contrary to law. Accordingly, the Court finds that Petitioner Davis' [1] Petition for Writ of Habeas Corpus should be dismissed and that the [25] Proposed Findings of Fact and Recommendation of Magistrate Judge Walker should be adopted as the opinion of this Court.

IT IS THEREFORE ORDERED AND ADJUDGED that the [25] Proposed Findings of Fact and Recommendation of United States Magistrate Judge Robert H. Walker entered in this cause on January 26, 2016, should be, and hereby is, adopted as the opinion of this Court.

IT IS FURTHER ORDERED AND ADJUDGED that [1] Petitioner's 28 U.S.C. § 2241 habeas corpus petition is **DISMISSED WITHOUT PREJUDICE**. A separate judgment will be entered.

SO ORDERED AND ADJUDGED this the 22nd day of February, 2016.

s/ Louis Guirola, Jr.
LOUIS GUIROLA, JR.
CHIEF U.S. DISTRICT JUDGE