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IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

KENNETH RAY SMITH	§	
VS.	§	CIVIL ACTION NO. 1:10cv659
JODY UPTON	§	

MEMORANDUM ORDER ADOPTING THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Kenneth Ray Smith, proceeding *pro se*, filed the above-styled petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. The court referred this matter to the Honorable Earl S. Hines, United States Magistrate Judge, for consideration pursuant to applicable orders of this court.

The respondent filed a motion for summary judgment. The Magistrate Judge has submitted a Report and Recommendation of United States Magistrate Judge recommending the motion for summary judgment be granted.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and pleadings. No objections to the Report and Recommendation were filed by the parties.

ORDER

Accordingly, the findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the magistrate judge is **ADOPTED**. The respondent's motion for summary judgment is **GRANTED**. A final judgment shall be entered dismissing the petition.

SIGNED this the **29** day of **July, 2011.**

Thad Heartfield
United States District Judge

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