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**UNITED STATES DISTRICT COURT****EASTERN DISTRICT OF TEXAS**

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RICKY LANE GILMORE,

§

Petitioner,

§

versus

§

CIVIL ACTION NO. 1:13-CV-439

DIRECTOR, TDCJ-ID,

§

Respondent.

§

**MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING  
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

Ricky Lane Gilmore, proceeding *pro se*, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. The court referred this matter to the Honorable Keith F. Giblin, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable laws and orders of the court.

The magistrate judge has submitted a Report and Recommendation of United States Magistrate Judge concerning this matter. The magistrate judge recommends the petition be dismissed without prejudice.

The court has received the Report and Recommendation of United States Magistrate Judge, along with the record, pleadings, and all available evidence. Petitioner filed objections to the Report and Recommendation.

The court has conducted a *de novo* review of petitioner's objections in relation to the pleadings and the applicable law. After careful consideration, the court concludes the objections are without merit. Petitioner's challenge to his state court conviction must be pursued in a petition

for writ of habeas corpus filed pursuant to 28 U.S.C. § 2254, rather than in a petition filed pursuant to 28 U.S.C. § 2241.

**ORDER**

Accordingly, petitioner's objections are **OVERRULED**. The findings of fact and conclusions of law of the magistrate judge are correct and the report of the magistrate judge is **ADOPTED**. A final judgment will be entered dismissing the petition.

SIGNED at Beaumont, Texas, this 29th day of July, 2014.

*Marcia A. Crone*

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MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE