

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF TEXAS

DYWAN SHENILLE BROOKS,

Petitioner,

versus

DIRECTOR, TDCJ-CID,

Respondent.

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CIVIL ACTION NO. 1:19-CV-162

**MEMORANDUM ORDER ADOPTING THE MAGISTRATE
JUDGE’S REPORT AND RECOMMENDATION**

Petitioner Dywan Shenille Brooks, a prisoner confined at the LeBlanc Unit of the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed this petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. Respondent filed an answer to the petition requesting that the petition be dismissed or transferred to the United States Court of Appeals for the Fifth Circuit as a successive petition.

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 this court. The magistrate judge recommends denying respondent’s motion to dismiss or to transfer the petition to the Fifth Circuit.

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

ORDER

Accordingly, the findings of fact and conclusions of law of the magistrate judge are correct, and the report and recommendation of the magistrate judge (#28) is **ADOPTED**. Respondent's motion to dismiss the petition or transfer it to the Fifth Circuit is **DENIED**. Respondent shall have forty days from the date of this order in which to show cause why the writ should not be granted or to otherwise plead.

SIGNED at Beaumont, Texas, this 6th day of January, 2021.



MARCIA A. CRONE
UNITED STATES DISTRICT JUDGE