

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

LARRY GREEN §
VS. § CIVIL ACTION NO. 5:13cv39
SCOTT YOUNG §

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

Larry Green, an inmate confined at the Federal Correctional Institution at Texarkana, Texas, proceeding *pro se*, filed the above-styled petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. The Court previously referred this matter to the Honorable Caroline M. Craven, United States Magistrate Judge, for consideration pursuant to 28 U.S.C. § 636 and applicable orders of this court.

The respondent has filed a motion asking that the petition be dismissed for failure to exhaust administrative remedies. The Magistrate Judge has submitted a Report and Recommendation of United States Magistrate Judge recommending the motion be granted.

The Court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and pleadings. Petitioner filed objections to the Report and Recommendation.

The Court has conducted a *de novo* review of the objections. After careful consideration, the Court is of the opinion the objections are without merit. Petitioner is challenging a prison disciplinary conviction. As explained in the Report and Recommendation, petitioner was originally convicted of possessing narcotics, marijuana or drugs not prescribed for him by medical staff. He exhausted his administrative remedies with respect to this conviction. However, after this petition was filed, the conviction was changed to misusing authorized medication and petitioner's punishment was decreased. As the nature of petitioner's disciplinary conviction has changed, and as petitioner contends that the revised disciplinary conviction is invalid, the Court agrees with the Magistrate Judge's conclusion that petitioner must exhaust his

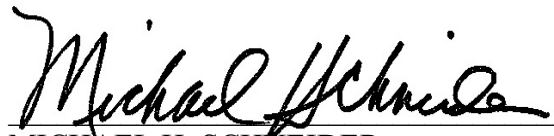
administrative remedies with respect to the revised conviction before seeking habeas relief in this Court. Petitioner is free to file a new petition after exhausting administrative remedies with respect to the revised conviction.

ORDER

Accordingly, the objections filed by the petitioner 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** as the opinion of the Court. The respondent's motion to dismiss is **GRANTED**. A final judgment shall be entered dismissing this petition.

It is SO ORDERED.

SIGNED this 21st day of January, 2014.

A handwritten signature in black ink, reading "Michael H. Schneider". The signature is written in a cursive style with a horizontal line underneath it.

MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE