

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

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|--------------------|---|----------------------------|
| RICKY THOMAS TERRY | § | |
| v. | § | CIVIL ACTION NO. 6:08cv182 |
| DIRECTOR, TDCJ-CID | § | |
| and | | |
| RICKY THOMAS TERRY | § | |
| v. | § | CIVIL ACTION NO. 6:08cv336 |
| DIRECTOR, TDCJ-CID | § | |

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ORDER OF CONSOLIDATION

The Petitioner Ricky Thomas Terry, proceeding *pro se*, filed these two habeas corpus applications under 28 U.S.C. §2254 complaining of the legality of his conviction. Both petitions challenge the same conviction and raise the same grounds for relief. This Court ordered that the cases be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

On September 9, 2008, the Magistrate Judge issued a Report recommending that the two petitions be consolidated into a single action, styled Ricky Thomas Terry, cause no. 6:08cv182. The Magistrate Judge further recommended that Terry only be charged one filing fee for this consolidated petition.

A copy of this Report was sent to Terry at his last known address, return receipt requested, but no objections have been received; accordingly, he is barred from *de novo* review by the

district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has reviewed the pleadings in this cause and the Report of the Magistrate Judge and has determined that this Report is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled civil actions be and hereby are CONSOLIDATED for all purposes into one application for the writ of habeas corpus, styled as Terry v. Director, TDCJ-CID, civil action no. 6:08cv182. *See* Rule 42(a), Fed. R. Civ. P. Any pleadings or documents received in either case shall be docketed in cause no. 6:08cv182; no further entries, after this order of consolidation, shall be made on the docket of cause no. 6:08cv336. It is further

ORDERED that, inasmuch as cause no. 6:08cv336 is wholly subsumed within cause no. 6:08cv182, a separate filing fee shall not be charged for cause no. 6:08cv336. This order of consolidation shall not affect the substantive rights of any party to this case.

So ORDERED and SIGNED this 28th day of October, 2008.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**