

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

TYLER DIVISION

DANIEL LEE KNOD, #1593785	§	
VS.	§	CIVIL ACTION NO. 6:11cv140
DIRECTOR, TDCJ-CID	§	

ORDER ADOPTING REPORT AND RECOMMENDATION

The above-entitled and numbered civil action was heretofore referred to United States Magistrate Judge Judith K. Guthrie. The Report and Recommendation (“R&R”) of the Magistrate Judge, which contains proposed findings of fact and recommendations for the disposition of Petitioner’s Motions for Leave to File an Interlocutory Appeal (docket entry #13) and for a Certificate of Appealability (docket entry #14), has been presented for consideration. Petitioner has not filed objections, though he has filed a Motion for Extension of Time (docket entry #24) in which to file objections.

Petitioner acknowledged receipt of the Magistrate Judge’s R&R on December 7, 2011. *See* Docket Entry #22. To be timely, his objections, or any motion for an extension of time, must have been filed within 14 days of that date. He states in the certificate of service to his Motion for Extension of Time that he placed it in the “United States mail” on December 20, 2011. That would have been 13 days after he received the R&R. However, to qualify for the “prison mailbox rule,” Petitioner must have mailed his motion through the prison mailing system. *See Spotville v. Cain*, 149 F.3d 374, 378 (5th Cir. 1998) (per curiam). He has not affirmed he did so. Nonetheless, even crediting the date of his mailing, Petitioner claims he was unable to timely prepare his objections

because (1) he “recently broke a finger,” which is “still in pain”; and (2) he ran out of paper. Motion at 1. Notwithstanding these reasons, he has been able to (1) hand-write his motion for an extension of time on (2) paper he had available for filing. The Court notes that he also filed a pleading on December 23, 2011, which was similarly handwritten on paper for filing. Furthermore, he has not even attempted to outline any substantive objections to the R&R in his motion. Thus, he has given the Court no substantive argument against the well-reasoned recommendations of the Magistrate Judge. Therefore, the Court will not credit his reasons for an extension of time. Finally, he has not specified a date for an effective extension. The Court will not grant an open-ended extension of time. Therefore, his Motion for Extension of Time will be denied.

No timely objections to the R&R having been filed, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and adopts same as the findings and conclusions of the Court. It is therefore

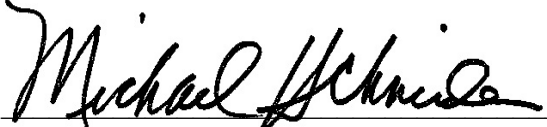
ORDERED that the Petitioner’s Motion for Leave to File an Interlocutory Appeal (docket entry #13) is hereby **DENIED**. It is further

ORDERED that the Petitioner’s Motion for a Certificate of Appealability (docket entry #14) is hereby **DENIED** as **MOOT**. It is finally

ORDERED that the Petitioner’s Motion for Extension of Time (docket entry #24) is **DENIED**.

It is SO ORDERED.

SIGNED this 30th day of December, 2011.


MICHAEL H. SCHNEIDER
UNITED STATES DISTRICT JUDGE