

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

SHELBY WAYNE FIFE §
v. § CIVIL ACTION NO. 6:11cv508
DIRECTOR, TDCJ-CID §

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Petitioner Shelby Fife, proceeding *pro se*, filed this application for the writ of habeas corpus challenging the legality of his parole revocation. This Court ordered that the matter 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.

Fife complained of the revocation of his parole, which occurred on July 16, 2009. The Magistrate Judge ordered the Respondent to answer the petition, and the Respondent filed an answer arguing that the statute of limitations had expired. Fife filed a response to this answer.

After review of the pleadings, the Magistrate Judge issued a Report recommending that the petition be dismissed. The Magistrate Judge noted that the statute of limitations had expired on Fife's claims, but that more importantly, Fife has now been released from confinement, rendering his claim for habeas corpus relief from the revocation of his parole moot. Spencer v. Kenma, 523 U.S. 1, 12, 118 S.Ct. 978, 985 (1009).

Fife received a copy of the Magistrate Judge's Report on May 2, 2012, but filed no objections thereto; 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 proposed 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. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge (docket no. 17) is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled application for the writ of habeas corpus is hereby DISMISSED as moot and, alternatively, DISMISSED with prejudice based upon the expiration of the statute of limitations. It is further

ORDERED that the Petitioner Shelby Fife is hereby DENIED a certificate of appealability *sua sponte*. Finally, it is

ORDERED that any and all other motions which may be pending in this civil action are hereby DENIED.

So ORDERED and SIGNED this 14th day of June, 2012.

A handwritten signature in black ink, appearing to read "LEONARD DAVIS", is written over a horizontal line. The signature is fluid and cursive, with a large loop on the left and a smaller flourish on the right.

**LEONARD DAVIS
UNITED STATES DISTRICT JUDGE**